

THE
FOURTEENTH
COMMONWEALTHS

Vermont and the States That
Failed

WILLIAM BREWSTER




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by

WILLIAM BREWSTER



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P R E F A C E

Some years ago, the author delivered an address on the lost states, before the University Club of Wilkes-Barre, which elicited considerable interest in the subject and that has induced me to write this book.

The subject has been variously, incompletely, and inaccurately treated in newspapers and magazines from time to time. Local histories have creditably presented the facts and a comprehensive history of one of the states that failed has been published. Inasmuch, as there were four movements, for the establishment of states and their admission as the fourteenth member of the Confederated United States, prompted by the same motives and pursued at about the same time, it seemed desirable to group the four projects together in one concise work.

The leaders of each proposed state expected it to be the Fourteenth Commonwealth. Vermont succeeded and the reader will be able to perceive why it did.

Vermont and the states that failed are not to be regarded merely as detached and dramatic episodes of our national life, but should be considered as integral and important contributions to the development of American character and to the evolution of the Federal Government of the United States.

In compiling this volume, the writer has relied on all available original sources of information. The more or less illegal nature of the movements required secrecy, and little of the proceedings was committed to permanent written records. Therefore, resort has been compelled to the nearest contemporary historical accounts.

With these brief words of explanation, this work with its omissions and imperfections is respectfully submitted to the patient reader.

WILLIAM BREWSTER

Kingston, Pa.

Oct. 1959

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THE FOURTEENTH COMMONWEALTHS

INTRODUCTION

WHY?

Why the title of this book? Because each of the new state schemes treated of herein, it was expected and hoped would become the fourteenth member of the Confederated United States. However, only one of the four succeeded, Vermont which became the fourteenth commonwealth of the Federal Union, not under the Articles of Confederation, but after the adoption of the Constitution and under the present government of the United States.

The four had a somewhat similar inception and development; and all the powers, if any, exercised, were derived from what may be termed the authority of squatter sovereignty. This distinguishes them from the colonies which by the Declaration of Independence were merged into the original thirteen United States, because these colonies derived their powers from the king of England either by royal orders, royal charters or royal proprietary grants. The Declaration of Independence sundered this royal authority, and most of the states assumed succession of this sovereignty by the means of conventions of the people.

The only tie binding Vermont to the Confederated United States was the claim of New York to the jurisdiction of its territory, and having successfully resisted that claim, the citizens of Vermont considered themselves politically adrift in the seething sea of the Revolution. They were a people of and by themselves, and impelled by the peril of their situation, they adopted their own Declaration of Independence and instituted a representative organization which for years maintained itself as the *de facto* government of an independent republic. By their great achievement at Ticonderoga, they thought they merited recognition of their independence, and time and again supplicated Congress to admit Vermont as the Fourteenth Commonwealth, but the persistent opposition of New York baffled their desires. Of the three lost states, Franklin and Transyl-

vania actually sent agents who solicited the recognition and support of the Continental Congress.

All of the four were inhabited by people of the same racial strain, thoroughly American and mainly of English and Scotch-Irish ancestry. A few of them were sordid land jobbing speculators, but most were courageous men and women who were actuated by the desire for cheap and fertile land and who sought only the betterment of their condition and the establishment of homes in the wild borderland. They were not idealists inspired by any public motives or patriotic impulses, not mere adventurers who sought the excitement of the frontier, nor refugees fleeing from bigotry and intolerance, but a practical people seeking satisfaction of the natural human desire for material improvement. Mostly young men and women with growing families, they went from the more crowded east either as individuals or organized colonists into the wilderness where they suffered the red-men's atrocities and the white men's oppressions. Some were mere squatters and the others held the lands they occupied by conflicting titles. In fact, their disputed land tenures caused their troubles and their abortive schemes of independence. They received little support and suffered opposition from their parent states, Connecticut, Virginia and North Carolina. Ignored, deserted, opposed and drifting about in a state of nature, they exercised squatter sovereignty and established for brief periods imperfect self governments in three of them.

The states that failed were impelled by the same motives and there is striking similarity in their inception, development and failure. Not one of them ever emerged into a state of complete legality. They were embryonic, and the stillborn children of a most troubled time, when the thirteen states exhausted by the struggles of the Revolution drifted to impotence and confusion. Like all associated states lacking the power of supreme sovereignty, the Confederation rent assunder by inability to collect its taxes, compose the quarrels of its members and enforce its enactments, was threatened with death and dissolution. Powerless to check the rising spirit of separation which threatened the dismemberment of some of the states, the American people embraced a stronger union, and one of the potent arguments in favor of the Federal Constitution was the disturbed condition of the state of Franklin and teeming discontent in the Kentucky counties of Virginia.

Three of the most pleasant spots in North America were occupied by the lost commonwealths, and the great fertility of the soil naturally enhanced the progress, prosperity and prestige of each. There were hardships and dangers, and terrible massacres, but not all the inhabitants were murdered by the Indians and in fact few were slain. There were alarms, flights and abandonment of the clearings but the settlers soon returned to the lands they occupied and loved. The sturdy men who wielded the axe and followed the plow and the vigorous young women with the many children they clothed and fed were mainly indifferent to the contentions that so greatly disturbed the politicians, and little cared whether the government was that of Connecticut, Westmoreland or Pennsylvania, Franklin or North Carolina, Virginia or Transylvania. They fought when fighting was necessary to hold their homes and naturally preferred one leader to the other and this jurisdiction to that, but their main purpose was to hold the lands which they occupied and which they retained with a tenacity that overcame every obstacle. More important to them than all the political bickering and fighting were: the location of a blacksmith shop at the intersecting trails around which grew a village with stores, taverns and pleasant homes; the erection of a mill on a nameless stream which ground their grain; the construction of another on a falling brook which sawed lumber for better homes; the laying out of roads and the building of bridges; and the founding of churches and the establishment of schools.

Franklin was the most important of the states that failed and the one attaining the most complete development. It adopted a constitution, elected a governor and assembly, enacted laws, organized courts, collected taxes and for some time exercised the functions of an independent backwoods republic. The envy and strife among its leaders put it to sleep. After a brief interlude of North Carolina and territorial government, it sort of translated itself into the state of Tennessee with its only governor as the first chief executive of that commonwealth.

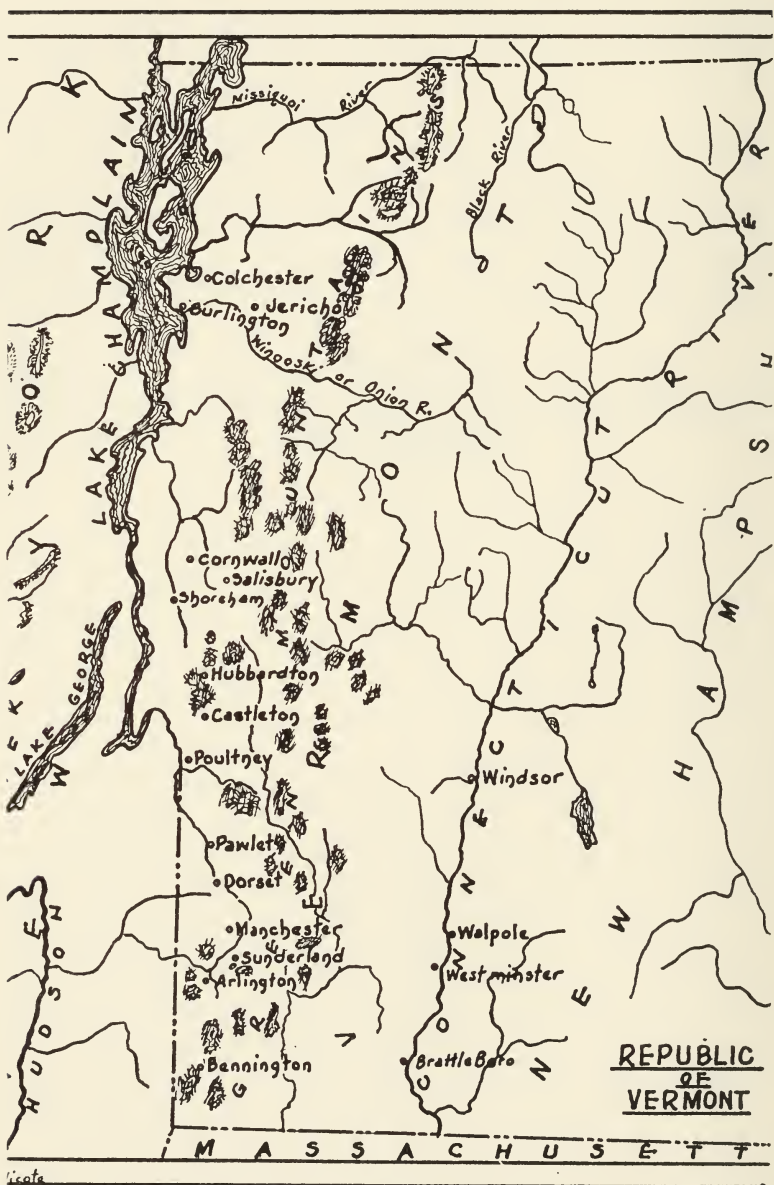
Transylvania was a land speculating scheme and began its existence with a gesture of independence. Its backwoods assembly hastily elected and convened held but one brief session. It passed some laws and adjourned. The whole scheme possessed only a shadowy existence during one summer, and then was enveloped and overwhelmed by Virginia.

Westmoreland or the Wyoming settlements had the most eventful and tragic history. The new state movement, there, only existed after the Decree of Trenton,¹ when the Connecticut people had driven out their Pennsylvania oppressors and during which time they exercised imperfect self government. As a commonwealth, Westmoreland was only a paper fabrication which vanished in a thin mist of history.

This work has been divided into four sections, each treating insofar as possible, only, of the events connected with the new state movement. No general and complete history of the four regions is attempted; but in order to give a proper background some extraneous circumstances and events have been considered.

¹ The Decree of Trenton was the judgment of the court constituted under the Articles of Confederation which determined the jurisdiction of the disputed territory to be in Pennsylvania.

Section I
VERMONT



CHAPTER I

THE NEW HAMPSHIRE GRANTS

It is not my purpose, in this section, to write a history of Vermont; but merely to compare the successful movement there with the futile efforts made to establish and maintain independent governments in the three states that failed; that is by a comparison of events and circumstances without attempting to account for the ultimate results. In the four movements for separation and independence, many conflicting circumstances, conditions, crosscurrents and confusions baffle and bewilder analysis and explanation. It may be best to confine treatment of the subject to certainty of facts and leave conclusions to the judgment of the intelligent reader or perhaps to the transcendent wisdom of critical historians and historical commentators who delight in conjecturing what might have been.

In the four state movements, there is much similarity in time, motives, actors and circumstances, and dissimilarity in territory, population and development. As to time, all began in the colonial period immediately preceding the Revolution, Vermont being the first in its inception. The underlying motive in every case was the demand, for better and cheaper land, inspired by the pressure of the farm population in the adjacent colonies. The actors were all of the same character, mostly adventuresome poor young men and with few exceptions native Americans, sturdy, industrious and independent. In religion, they were Calvinists, New England Congregationalists at the north and Presbyterians in the south. The basic racial stocks were English and Scotch-Irish but this difference in blood did not differentiate them for both equally loved freedom and independence. The circumstances which influenced them are difficult to define, yet all the movements were similarly beset with disputed land titles, conflicts over jurisdiction, land jobbing, internal jealousies, and the hostility of the neighboring colonies.

The territories embraced in the four projects were all in-

land, but differed from each other in fertility of soil, outlets for commerce, natural resources and size. In Vermont, a considerable population supported an orderly administration, but in the others there were insufficient inhabitants to maintain efficient self government. In all, except Transylvania, development was retarded by armed conflicts over jurisdiction and internal dissension, but Vermont excelled the others in cultivation of the soil, comfortable living, government and progress.

The territory north of Massachusetts extending to the Canadian line, and between the Connecticut river and New York, now comprehended in the state of Vermont, was, in 1749, claimed by Massachusetts, New Hampshire and New York. The respective claims of Massachusetts and New Hampshire were based on the following grants, royal decisions and actual possessions. In 1606, King James I created two chartered companies, the Virginia and Plymouth companies and granted them all the territory of North America between the 34th and 45th degrees of latitude and extending from the Atlantic to the Pacific Ocean, the latter company to hold the northern portion.¹ In 1620, the king revived the Plymouth company, which had fallen into decay, under the name of the Council for New England and granted it all the territory between the 40th and 48th degrees of latitude and extending from sea to sea.²

Acting under this grant, the Council for New England, March 19, 1627, granted to Sir Henry Roswell, John Endicott and others all the land between lines drawn three miles north of Charles river and three miles north of Merrimac river and extending from the Atlantic Ocean to the Pacific Ocean; but this while vesting title to the land gave the grantees no powers of government.³ This deficiency was, however, supplied by King Charles I, who, March 4, 1628, granted them and twenty others a royal charter, under the name of "The Governor and Company of the Massachusetts Bay in New England," giving them full powers of government and confirming the ownership of the territory previously granted to Roswell and others.⁴

The claim of New Hampshire was founded on the following grants made by the Council for New England to John Mason:

¹ Hutchison's *History of Massachusetts*, Vol. I, page 2.

² *Ibid.*, page 5.

³ *Ibid.*, 8; Palfrey: *History of Colonial New England*, Vol. I, page 97.

⁴ Hutchinson, Vol. I, page 9; Palfrey, Vol. I, page 98.

March 9, 1621, territory between Naumkeag (Salem) and the Merrimac; August 10, 1622, territory from the Merrimac to Sagedahoc; November 7, 1629, territory between Merrimac and Piscataqua rivers; April 22, 1635, territory between Naumkeag and Piscataqua river by the name of New Hampshire.⁵

Under these grants or by their own volition, settlers entered the territory between the Merrimac and the Piscataqua river near its mouth and the following towns were established: Dover, Exeter, Hampton and Portsmouth. In 1677, the Mason conflict of title with the Massachusetts grant was referred to a committee of the King's Council, which determined "that Massachusetts had a right to three miles north of Merrimac river to follow the course of the river so far as it extended."⁶ The effect of this decision was to absorb a great part of New Hampshire in Massachusetts, as the course of the Merrimac is west from the ocean for a considerable distance, then turns south makes a loup and thence runs north about fifty miles to the outlet of Winnepausake lake (now Bristol).

Consequently, if this construction prevailed all that remained to New Hampshire was the territory between the course of the Merrimac from its source and the Piscataqua. However, the old charter of Massachusetts having been vacated, King William in 1691, granted a new charter with a royal governor⁷ and defined the northern boundary of the province as "extending from the great river commonly called Monomack, alias Merrimac on the north part and from three miles northward of said river to the Atlantic, etc."⁸

In 1737, a royal commission, composed of colonial delegates, decided that if the northern boundary of Massachusetts was fixed by the old charter, it ran as determined by the committee of the King's Council in 1677, viz from the outlet of Lake Winnepausake to the sea; but if the boundary was fixed by the second charter, that of King William, it began three miles north of the mouth of the Merrimac and thence due west to the sea.⁹ This opinion decided nothing, and both Massachusetts and New

⁵ Hutchinson, Vol. I, pages 313 to 317; Palfrey, Vol. I, page 77.

⁶ Hutchinson, Vol. I, pages 312 to 319 for a discussion of claim and opinion of Jones, Attorney general.

⁷ *Ibid.*, page 410.

⁸ *Ibid.*, page 383.

⁹ *Ibid.*, 382 to 387; Palfrey, IV 68 to 70.

Hampshire appealed to the king, whose privy council disregarding any interpretation of the charters established an arbitrary line between the two provinces, viz "that the northern boundary of Massachusetts should be a curved line pursuing the course of the Merrimac river at three miles distance on the north side thereof beginning at the Atlantic Ocean and ending at a point due north of Pautucket Falls (now Lowell) and a straight line drawn from thence due west until it met the New York line."¹⁰ This settlement fixed the southern line of New Hampshire but did not determine how far west that province ran.

The claim of New York was based upon the grant of Charles II to his brother, the Duke of York, after the conquest of New Netherland, of "that part of the Main Land of New England and extending from the river Kennebeck and so upward by the shortest course of the river Canada, etc. and all the land from the west side of Connecticut to the east side of Delaware Bay."¹¹ This grant made March 12, 1664, included the parts of Connecticut and Massachusetts west of the Connecticut river; but by an agreement between New York and Connecticut, in 1683, the boundary line between the two colonies was fixed twenty miles east of the Hudson river.¹² This line was, by intrusions and possessions of Massachusetts, acquiesced to by New York as the boundary between them and is so stated in a report of the Lords of Trade to the king in 1757.¹³

The foregoing grants, decisions, of the royal council, agreements and possessions indicate a certainty of facts warranting the conclusion, that the legal technical title to and right of government of the territory, now Vermont, was, in 1749, vested in the province of New York; that Massachusetts had merely a claim of possession to a small region by reason of its establishment of Fort Dummer, now Brattleborough and other settlements nearby; and that the western boundary of New Hampshire was undefined but could extend no farther westward than the Connecticut river. As to New Hampshire, this was the conclusion of the royal government, which that year appointed Benning Wentworth governor of New Hampshire, and defined the terri-

¹⁰ *Ibid.*, 387, 388; *Ibid.*, 71, 72.

¹¹ New York Colonial Documents II, page 295.

¹² *Ibid.*, Vol. IV, pages 628 to 630.

¹³ *Ibid.*, Vol. VII, page 223; also see Colden's letter in which he states he can find no record of any agreement.

tory he was to govern, as extending due west till it met another government.¹⁴

Nevertheless, Wentworth, presuming that his colony extended as far west as Massachusetts, granted, January 3, 1749, to William Williams and sixty-one others a township six miles square and situate twenty four miles east of the Hudson River and six miles north of Massachusetts, which in his honor was called Bennington. Wentworth communicated, to Governor Clinton of New York, his presumptive right, which the latter disclaimed. After informing Clinton of his grant of the township of Bennington, it was agreed between them that matters should remain status quo, awaiting the decision of the king.¹⁵

Notwithstanding this agreement, Wentworth made further grants and by 1754, had granted fourteen townships west of the Connecticut river. His nephew, John Wentworth, who succeeded him as governor, had surveys made and laid out on either side of the Connecticut river three rows of townships; and by 1764 granted one hundred thirty-eight townships extending as far as Lake Champlain. It has been urged that the Wentworths were actuated solely by personal greed, and that the fees they received and their retention for themselves of two rights of three hundred and sixty acres in each township greatly enhanced their private fortunes.

A New Hampshire grant consisted of a township, six miles square, divided into sixty-four proprietors rights of about three hundred sixty acres each. One of these rights was reserved for the church, one for the first settled minister, one for schools, one for the Society for the Propagation of the Gospel and two for the governor. In most cases, the townships were granted to land jobbers who peddled out the rights to actual settlers or held them for future speculation. The rights were usually sold at reasonable prices to poor young men, from the adjacent New England colonies, who were eager for homes and rapidly settled the disputed territory. These purchasers knew little of land titles and confidently assumed their titles were indefeasible being derived from a royal governor. Moreover, they were induced to purchase and encouraged to settle by assurances, of New Hampshire's right to the territory and intention to defend the validity

¹⁴ *Documentary History of New York*, Vol. IV, page 552.

¹⁵ *Ibid.*, pages 534 to 537.

of its grants, contained in the proclamation of Governor Wentworth, issued March 16, 1764.¹⁶

Meanwhile, New York had not remained indifferent to the action of New Hampshire and the intrusions of the settlers under its grants; and Governor Colden had issued a proclamation, preceding and provoking Wentworth's proclamation, warning the intruders and pronouncing them outlaws.¹⁷ More effectual than these paper manifestoes was New York's appeal to the royal government and the plastering of the New Hampshire townships with patents issued to that province's politicians and avid land jobbers.

By the appeal, it obtained from the king, July 20, 1764, an order declaring, "the western banks of the River Connecticut from where it enters the province of Massachusetts Bay as far North as the forty-fifth degree of Northern latitude to be the Boundary line between the said two Provinces of New Hampshire and New York."¹⁸ By plastering the New Hampshire grants with patents, New York secured the support of many of its most influential men, and planted on the ground a considerable number of settlers, who disputed the possession of the New Hampshire grantees. The king's order put a stop to Wentworth's land jobbing scheme and inhibited New Hampshire from exercising jurisdiction over the grants it had made.

In 1760, New York established the county of Cumberland, running from the Connecticut river to the Green Mountains;¹⁹ and in 1770, Gloucester county north of Cumberland and adjacent to the Connecticut river.²⁰ A majority of the settlers in these counties held their lands under New York patents, and consequently were strongly attached to that province.

The New York land jobbers brought actions of ejectment in the courts of that province and attempted evictions were made. To protect themselves and stop these suits, the settlers living about Bennington sent Samuel Robinson, a leading inhabitant there, as their agent to London. Robinson enlisted the powerful assistance of the Society for the Propagation of the Gospel, which possessed a right in each township under the Wentworth grants, and the two by their petitions obtained an order from the

¹⁶ *Ibid.*, page 570.

¹⁷ *Ibid.*, 558.

¹⁸ *Ibid.*, 576.

¹⁹ *Ibid.*, 587.

²⁰ *Ibid.*, 634.

king, April 11, 1767, commanding the governor of New York to make no new grants in the disputed territory and to molest no person in quiet possession of land under a valid deed from New Hampshire.²¹

The attitude of the royal government was most commendable. It considered the welfare of the actual settlers and not the selfish interests of the royal governors, or as Lord Shelburne said in his letter transmitting the king's order: "The power of granting land was vested in the governor of the colony originally for the purpose of accomodating, not disturbing settlers especially the poor and industrious." However, this liberal and benign policy of the crown had been thwarted by the cupidity of the royal governors and their political favorites, who when confronted with their transgressions, excused themselves by omissions, equivocations and evasions, as did Governor Moore of New York, in his replies to Shelburne.²²

A list of the settlers made December 18, 1765 by Samuel Robinson and Jeremiah French²³ indicates there were upward of two hundred and fifty settlers west of the Green Mountains and in the region about Bennington; and it is to be presumed there were equal numbers settled along the Connecticut river. In the next two years, the number greatly increased and probably Robinson was justified in the assertions contained in his petition to the king. Those west of the Green Mountains invariably depended on the New Hampshire grants, and those east of the mountains and along the Connecticut river held under both New York and New Hampshire and their allegiance was generally to New York. This difference of title and allegiance greatly confused and embittered the contest, as will presently appear.

From the king's order, of 1764, declaring the western banks of the Connecticut, etc. "*to be*" the boundary line, conflicting conclusions were drawn as to the meaning of the words *to be*, New York contending they referred to the past and that the Connecticut river had always been the eastern boundary of that province; while the New Hampshire grantees maintained the words affected the future and did not impair the validity of the prior grants made by Governor Wentworth. However constrained the latter construction may seem, by it the New Hamp-

²¹ *Ibid.*, 584-609.

²² *Ibid.*, 590, 605.

²³ *Ibid.*, 585.

shire grantees justified their resistance to the claims of New York.

Perhaps, a better justification was the inherent moral right of the settlers to the lands they alone made valuable by occupation and improvement, and the royal declaration that the actual settlers who had valid deeds from the New Hampshire governor were not to be disturbed in their possessions. Since this better justification applied only to actual settlers and not to the land jobbers who owned most of the New Hampshire township grants, and were the leaders of the resistance to New York, the constrained construction of the words *to be* provided them with a legal argumentation of the contest.

However, legal pros and cons were of no avail and the contest was now transferred to the arena of force and arms.

CHAPTER II

THE BENNINGTON MOB

The state of Vermont was largely the creation of a remarkable family. Joseph Allen, a sturdy Connecticut farmer and his wife Mary Baker, aunt of Remember Baker, were the parents of two daughters, Lydia and Lucy, and six sons, Ethan, Heman, Levi, Zimri, Heber and Ira, who were all notable in the annals of Vermont. Even as children, they were obstinate, bold and clever; and Ethan is said to have characterized them, thus, "Only two women were delivered of seven devils, Mary Magdalene and my mother." Of these sons, Ethan, the eldest and Ira, the youngest, became famous.

Ethan Allen was born in Litchfield, Connecticut, January 10, 1738, and soon after the family removed to the town of Cornwall in the same colony. As a youth, Ethan came in contact with Dr. Thomas Young, a scholarly man and from him imbibed some philosophical notions and unorthodox religious opinions. Desiring wealth, he joined a partnership business, which erected a small iron furnace at Salisbury, Connecticut, for the manufacture of cast iron kettles that readily sold to potash makers. This and other speculative ventures not proving very successful, we find him in 1768 attending a meeting at Canaan, Connecticut of New Hampshire grantees, who were devising ways and means to defend their rights in law suits brought against them at Albany. Impressed by Ethan's audacity and dominating personality, they employed him as their agent in defense of the suits.

Allen immediately went to Portsmouth, New Hampshire and interviewed Governor Wentworth, who convinced him of the validity of the New Hampshire grants, in fact so much so, that he purchased a right in the town of Pultney and another in Castleton. At Wentworth's suggestion, he went to New Haven and engaged Jared Ingersoll, an eminent Connecticut lawyer, to represent him in the Albany suits. At the trial, the judge himself a land jobber and interested party refused to consider

Ingersoll's defense and directed judgment against the New Hampshire grantees. The New York land jobbers attempted to bribe Allen, who spurned their offer with a remark that: "The Gods of the Hills are not the Gods of the Valleys," and when pressed for an explanation of this assertion replied, "If you will accompany me to the hill of Bennington the sense will be made clear." This was Vermont's Declaration of Independence.

At the Catamount Tavern in Bennington, Allen announced the failure of his legal defense, and it may be presumed advised resort to force and arms. Be that as it may, the upshot was the formation of an organized mob, called the Green Mountain Boys with Ethan Allen, Colonel Commandant and Seth Warner and Remember Baker, captains. Most of the summer, Ethan spent at the Catamount Tavern bluffing, bragging, threatening and denouncing "Yorkers" with horrid profanity. Although not a dissipated man, it is said he was an adept at mixing stone fence, the popular beverage in the Green Mountains, which was a strong concoction of rum, apple jack, cider, spices and Jamaica ginger. It may be presumed that his carousals at the Catamount did not lessen his popularity with the rough frontiersmen of his regiment, who estimated his ability to lead by his capacity to consume stone fence. When cold weather came and "Yorkers" were not likely to bob up, Ethan went to the home of his brother, Heman at Salisbury and there in the congenial company of his own family spent the winter. As he had a flare for writing, when not loafing at his brother's store, he spent his time producing broadcasts against New York land jobbers, scribbling scraps of philosophy of which he knew nothing and writing diatribes against the Jewish Jehovah and Puritan preachers.

Ethan Allen was no soldier and not much of a statesman. The only real fighting he ever did was in the little engagement in which he got himself captured; and thereafter he languished in a British prison until the fighting was pretty well over. Neither did he exert any great influence in the civil affairs of his state. He prevailed by his manner and not by his means. That his sober neighbors in Vermont justly estimated his limitations is illustrated by the election of Seth Warner to command the Vermont Revolutionary regiment, and the choice of Thomas Chittenden governor of the state for twenty years.

Notwithstanding, this dubious estimate of him, Ethan Allen was, in the opinion of the writer, the father of Vermont. He was

the right man, at the right time in the right place. He was a mob leader at a lawless time in an isolated community. He rightly estimated the irresolution and timidity of the land jobbers, the vacillation and contemptible weakness of the New York government, the moral sympathy of the surrounding people and the just policy of the British government. By bluffing, blustering, threatening, burning and beating without design of murder, he terrified and intimidated his antagonists and prevented New York's absorbing the New Hampshire grants.

As presumed by a biographer, Ethan, on all unusual occasions, in order to impress his "Boys," wore his traditional uniform with epaulets, gold braid and shinning buttons. He certainly on training days wore his huge sword, specially made to accomodate his gigantic stature, and gave his commands with considerable profanity. That his men had much training is doubtful, for Ethan knew little about the manual of arms, and we may assume it was confined to marching back and forth a few times on the village green to the beat of a drum, and then a headlong charge into the Catamount tap room and a terrific assault on stone fence. When these martial duties had been duly performed, it is probable that the valiant soldiers, all that were able departed to their lonesome cabins and left the campaign in the hands of Ethan, Landlord Fay and the other leading statesmen who consumed the rest of the stone fence.

The courage of the Green Mountain Boys was never put to the test, but if it had been there is no doubt they would have creditably acquitted themselves, for they were made of the stuff which could fight like a cornered catamount. This terrible animal was their emblem and in its honor or their own honor, they had stuffed one of ferocious size and mounted it atop a tall pole in front of Fay's tavern at Bennington with its glistening teeth and sharp nose pointed toward New York.

No roster of the Green Mountain Boys exists. When summoned, they seemed to come spontaneously out of the ground and when the day's deed was done they vanished as they came. They never encountered an army, as none ever ventured into their sacred Green Mountains, and consequently they never fought any battles, killed any one or got themselves killed. No tragedy was suffered like that of their kindred down in the Wyoming Valley, where there were pitched battles, many fatal casualties, destruction of whole villages and cruel eviction of

thousands; and neither were their encounters comparable to the engagements between the factions in the hills of East Tennessee. All their escapades did not equal a bloody tumult in a Pennsylvania mining patch fifty years ago. Nevertheless, the Green Mountain Boys accomplished much and succeeded while the others failed.

They chased "Yorkers", whipped land agents, suspended itinerant doctors on high poles, banished surveyors, switched naked chain boys with "twigs of the wilderness" and killed no one. Needless to say these indignities shamed the New York settlers and agents, and soon none dared venture across the border and endure humiliation. The New York governor fretted and fumed, issued proclamations and offered rewards, which only provoked Ethan to, more insolent and obstinate defiance.

The activities of the Green Mountain Boys were principally confined to the district in and around Bennington. East of the Green Mountains and along the Connecticut river, there was pretty general submission to the government of New York.¹

The antics of the Bennington Mob, as New Yorkers designated the Green Mountain Boys, are well told in the numerous affidavits made at the time, and as they are retold in the various histories of Vermont, these accounts for the most part must be substantially correct. In order that the reader may understand the nature of the struggle, some of the episodes are hereinafter retold.

John Munro, an occupant under New York grants, and a magistrate by appointment of that province, was the most active and obnoxious opponent of the New Hampshire grantees.² He complained: "They, (the Green Mountain Boys) assemble themselves together in the night and throw down all the Yorkers Fences as we are called, and Drives the cattle into the Fields and meadows and destroys both Grass and corn and do ever mischief they can think of."³ To make bad matters worse, the mob destroyed Squire Munro's potash works and threatened to burn all his property.⁴ Unable to put up with his obnoxious presence any longer, the mob seized him tied him to a tree and whipped him until he fainted. When he revived, he was again

¹ *Documentary History of New York*, Vol. IV, page 837.

² *Ibid.*, pages 680, 744, 762, 776.

³ *Ibid.*, page 714.

⁴ *Ibid.*, page 800, 843.

flogged until he fainted and upon recovery was whipped the third time. His wounds were dressed and he was forever banished with the admonition if he returned he would be hanged.⁵ Needless to say Munro had had enough and we hear little of him any more.

In spite of the organized resistance, the land jobbers were determined to drive out the New Hampshire men, and in January, 1771, Sheriff TenEck of Albany county with a large posse marched across the border to the house of James Breckenridge in Bennington for the purpose of evicting him. Breckenridge had been warned of their approach and had fortified his house within which a number of armed neighbors had gathered to resist the sheriff. Most of the posse slunk away and refused to cooperate, and the sheriff supported by only two or three approached the door and demanded admission. The Bennington Mob seems to have been well mustered for the occasion, as two large armed bands of them had secreted themselves in the bushes flanking the house. Discovering this, the sheriff backed out of his perilous position as best he could and with what remained of his formidable array departed in haste and fear to the safety of Albany.⁶

If such could be the humiliation of a sheriff backed by the great power and wealth of New York, the woe of the individual who ventured into the disturbed country was intolerable. Such was the situation of Dr. Samuel Adams, an itinerant physician who had squatted on a New York claim at Arlington. The disposition of his neighbors seems to have been toleration of his presence, probably because of his occupation for doctors were badly needed there; and if he had been quiet his intrusion would have been overlooked. Although warned to keep his mouth shut, like most foolish men he continued to talk long and loud. This provoked the "Boys" to seize and bring him to Ethan Allen's judgment seat, a stump in front of the Catamount Tavern in Bennington. Ethan patiently listened to the complaint and the doctor's answers; and not wishing to do the old blatherskite physical harm, soberly adjudged him guilty of intolerable pertinacity, and pronounced an astounding sentence which was immediately carried out. He was securely strapped in a chair which was hoisted to the top of the pole directly beneath the threatening catamount and kept suspended there while every

⁵ Ira Allen: *History of Vermont*, page 57.

⁶ *Documentary History of New York*, Vol. IV, pages 732 to 743.

one jeered and laughed. When lowered from his perch unharmed, he was so humiliated, that he never "peeped after."⁷

Not ridiculous but severe was the punishment dealt out to Charles Hutcheson, a "Yorker," who had built a cabin near the twenty mile line. Ethan and Remember Baker descended upon him, demolished his cabin, made a great bonfire of the logs and when they were consumed, Ethan admonished him: "Go your way now, and complain to that Damned Scoundrel, your governor. God Damn your governor, laws, king, Council and Assembly." When he remonstrated, Allen thundered in his terrible way: "God Damn your soul are you going to preach to us," and made terrible threats against him. Whereupon, he fled and returned no more.⁹

This was a little more than New York could stand and the Council after ponderous deliberation offered a reward of twenty pounds for the capture of Ethan Allen, Remember Baker and other terrible malefactors.⁹ Governor Tryon followed with a long winded proclamation as effectual as the Pope's Bull.¹⁰

Undaunted by rewards and proclamations, Ethan went into the proclamation business and issued, February 5, 1772, his celebrated bombastic proclamation, which he had printed and distributed and posted across the New York frontier. It was signed by Ethan Allen, Remember Baker and Robert Cochran, and offered a reward for the capture of James Duane and Thomas Kemp, New York lawyers and land jobbers, who were termed disturbers of the peace.¹¹ Ethan had a fine sense of humor, and well knew his reward was only a hoax, as neither Kemp nor Duane, who were both lawyers and consequently great cowards, dared venture even to Albany and run the risk of being kidnapped and strung up on the Catamount pole. It was intended as a jolly joke and was so regarded by most people in New York, who enjoyed a good laugh over futile proclamations and rewards and the discomfiture of governors, land jobbers and politicians.

In the beginning of his campaign against the "Yorkers," Allen came to and went from Vermont with the seasons, but

⁷ Ira Allen: *History of Vermont*, page 46.

⁸ *Documentary History of New York*, Vol. IV, page 746.

⁹ *Ibid.*, page 749.

¹⁰ *Ibid.*, page 730.

¹¹ Manuscript in State Library at Montpelier.

in 1771, when the Bennington Mob under his skillful direction had pretty well established the security of the New Hampshire grants, he bought a property in Poultney where he placed his brother Heber and family, and there made a more permanent home.

Not all things went so well with the Green Mountain Boys and especially with Ethan's cousin, Remember Baker, who had a sad experience. One night a Yorker mob inspired by hope of the reward broke into his house, pulled him and his wife out of bed, wounded both and leaving her insensible on the floor bore away the struggling and bleeding Remember. She recovered her senses, hastened to a neighbors and gave the alarm. Soon the "Boys" were in close pursuit and overhauled the "Yorkers" before they had gone far toward Albany. After badly mauling the presumptuous "Yorkers" and releasing the prisoner, they carried the injured Remember back to his home.

This diabolical outrage, as he termed it, aroused Ethan to a white passion and he wrote a highly colored account of the affair, which he had published in the Connecticut Courant, then widely read, and this as Ethan designed won much sympathy for the New Hampshire people.

Governor Tryon of New York tiring of futile proclamations resorted to appeasement and May 10, 1772, addressed a letter, to the inhabitants of Bennington, offering safe conduct to their representatives and suggesting as their envoys, Parson Dewey, James Breckenridge and Stephen Fay, but warning them not to send Ethan Allen, Robert Cochran, Mr. Seville or Remember Baker, and particularly Seth Warner, "whose audacious behavior has subjected him to the penalties of the laws of his country."¹² As ambassadors, Stephen Fay and Jonas Fay repaired to New York and submitted the attitude of their constituents to the Provincial Council, which after due consideration, resolved that all criminal prosecutions be suspended and a recommendation be made to all New York claimants to stop all civil suits until the king's pleasure should be made known.¹³

This attitude was favorably received, but while the settlement was being acclaimed at the Catamount Tavern with toasts to the king, Governor Tryon and the New York Council¹⁴, there

¹² *Documentary History of New York*, Vol. IV, page 779.

¹³ *Ibid.*, page 792.

¹⁴ *Ibid.*, pages 791, 792.

were new flare ups on Otter Creek and as far north as the Onion River. Inspired by the victories of the "Boys" over the "Yorkers," there had been a brisk sale of New Hampshire grants and an influx of New England settlers into this northern region. This stimulated the activities of the New York claimants, who sent surveyors into the district to lay out their claims and agents to occupy them. In September, John Dumber, a "Yorker," while attempting a survey on the Onion River, was seized by a mob led by Remember Baker and Ira Allen, and "thrown into the fire, Burned and otherwise beat and abused in a cruel manner."¹⁵

Meanwhile, the Board of Trade in London, acting under orders of the king, was attempting a solution of the vexatious dispute; and made their decision in a report submitted to the Privy Council in December,¹⁶ wherein they concluded: First, that the proprietors in all townships originally settled and established under grants from Massachusetts should be quieted in their possessions, and that all New York claimants to their lands should be compensated by grants elsewhere upon condition of their quitting their said claims: Second, that all grants by New York upon which actual improvements had been made previous to the establishment of the townships laid out by the governor of New Hampshire ought not to be disturbed; Third, that all townships laid out by the governor of New Hampshire, provided they do not include lands antecedently granted, and improved should be confirmed, and the shareholders in said townships who have actually settled and improved their shares ought not in the future be disturbed in their possessions. It was further recommended that ample grants of land should be made to soldiers, ministers of the gospel, schools, the Society for the Propagation of the Gospel and that the rights of the royal navy should be secured. This report severely criticised the conduct of the New York governors and Council in their grants of land.

Nothing could have been fairer than the attitude of the British government, but this report gave great displeasure and antagonism in New York, not only because of its severe censure of the monopolistic land steals practiced in that province, but also because it practically nullified the New York grants in

¹⁵ *Ibid.*, 779.

¹⁶ *London Documents*, XVIII.

Vermont by the requirement of actual settlement and improvement. This requirement could not be met by the New York patentees. Neither did the report give entire satisfaction to the New Hampshire grantees, because the Allens and other leaders of the resistance possessed extensive rights upon which no settlements or improvements had been made. Governor Tryon in a communication to the Board of Trade pointed to the impossibility of securing any legislation favoring the recommendations because of the antagonism of the most influential politicians, and also argued against the practicability of their suggestions.¹⁷

The king's government and Governor Tryon being unable to make any headway, matters progressed as before. Colonel Reid, who had extensive New York grants on Otter Creek nearly opposite Crown Point, settled several Scotch families thereon and erected a gristmill for their convenience. Such being the situation, Ethan Allen accompanied by Seth Warner, Remember Baker and one hundred and ten members of the Bennington Mob made a descent upon the plantation. They drove the occupants from their homes, burned their dwellings, destroyed the mill and threw the broken millstones into the river. Some of the poor settlers were whipped with "twigs of the wilderness"; and Ethan Allen with much horrid profanity threatened the scared Scotchmen, "if they returned he would skin them alive."¹⁸

Confronted with this depredation, the New York Council concluded there was not much they could do about it, except appeal to General Haldimand, commander of the king's forces to suppress "the lawless vagabonds."¹⁹ However, Haldimand who was a man of sense rebuffed their supplication with the caustic observation: "The idea that a few lawless vagabonds can prevail in such a government as that of New York as to oblige its governor to have recourse to the Regular Troops to suppress them appears to me to carry with it such a reflection of weakness, as I am afraid would be attended with bad consequences and render the authority of the Civil Magistrate when not supported by the troops contemptible to the inhabitants."²⁰

This contemptible weakness of the New York government

¹⁷ *Ibid.*

¹⁸ *Documentary History of New York*, Vol. IV, pages 846 to 854.

¹⁹ *Ibid.*, page 843.

²⁰ *Ibid.*, page 845.

may be attributed to the hostile attitude of the royal government against its iniquitous policy of land jobbing and the lack of support by its own inhabitants, who had to pay excessive quit rents to their aristocratic landlords and were repressed and down trodden by the corrupt government under their control.

Illustrative of the inhabitants' attitude toward their government is the story which has come down through the generations of one of Ethan's exploits, which it would appear he could not have accomplished without the sympathy of the Albany people. As the story goes, one day while carousing with his cronies at the Catamount Tavern, one of them bet him that he could not leave a copy, of his bombastic broadcast which he was then circulating, at Bennedict's Tavern in Albany. Ethan accepted the bet, mounted his horse, rode to Albany, entered the tavern, called for a bowl of punch, drank it, handed the landlord the poster and boldly announced to the tipsters, "I am Ethan Allen." He then mounted his horse and rode back to Bennington undisturbed and unharmed, although he was then outlawed in New York and a large reward offered for his capture.

Continuing the same audacious course, Ethan and his followers determined upon the liquidation of Durham, a "Yorker" town situated in the heart of the Green Mountains and the special chastisement of Benjamin Spencer and Rev. Benjamin Hough, principal citizens there, who had accepted commissions of justice of the peace under New York. Late in the spring of 1774, Spencer's property was laid waste;²¹ and in January 1775, Preacher Hough was seized, carried in a sleigh fifty miles southward to Sunderland and brought before Ethan Allen, and condemned. Thereupon, he was stripped naked and whipped with two hundred lashes. Faint and bloody, he was put in the care of Dr. Washburn and when he recovered was given a paper signed by Ethan Allen and Seth Warner affording him, "unmolested passport toward the city of New York or to the westward of our grants."²²

Governor Tryon offered a reward of one hundred pounds for the capture of Ethan Allen and Remember Baker, and fifty pounds for the apprehension of Seth Warner, Robert Cochran, Peleg Sunderland, Silvanus Brown, James Breckenridge and

²¹ *Ibid.*, page 879.

²² *Ibid.*, pages 896, 897.

John Smith.²³ This seems to have ended the paper fulminations of the royal governors and Tryon by the outbreak of the Revolution was shorn of his power.

With the demise of the royal government there appears to have been a cessation of the tumultuous strife, leaving the Green Mountain Boys in physical possession of the New Hampshire grants. By bombastic broadcasts and inflammatory appeals, Ethan had impressed all New England with the prowess of himself and his followers and prepared the way for his great achievement.

The Revolution began at Lexington, April 19, 1775, and early in May members of the Connecticut Assembly arrived at Bennington in quest of Ethan Allen. They brought with them directions that he should undertake the capture of Ticonderoga. He immediately summoned his men and with two hundred and thirty Green Mountain Boys marched across Vermont to Lake Champlain, arriving on the eastern shore opposite Ticonderoga in the evening of May 9th. Before daybreak, the morning of the 10th, Allen had succeeded in ferrying only eighty three of his men across the lake. Forming these in line behind him and with the humbled Arnold at his side and led by a little boy as his guide, the silent march began up the hill to the great, gray stone ramparts barely visible in the dim dawn.

The sentinel at the wicket gate snapped his piece and fled. The tumultuous mob of men poured through the sally port to the parade ground within; while Allen bounded up the stairs to the commandant's room and banged the door with the hilt of his sword. Aroused by the din without, the befuddled commander tumbled out of bed, unawake and undressed with his breeches in his hand. To the demand that he surrender, he timidly inquired, "By whose authority?" "In the name of the great Jehovah and the Continental Congress," thundered Allen swinging his sword over the captain's head and with a horrid oath threatening to cut him asunder. The surrender was complete. It was a great accomplishment without the loss of blood, a great fortress taken with over a hundred cannon, sled loads of powder and balls and immense military stores with no one killed and no one seriously hurt by a bluffing, blustering threatening mob of men. No others could have done it but Ethan Allen and the Bennington Mob.

²³ *Ibid.*, page 871.

CHAPTER III

ONION RIVER LAND JOBBING

Ethan the oldest was thirteen years older than Ira the youngest of the six Allen brothers, but the difference in age was slight compared with their difference in character. Ethan was blunt and bold. Ira was cold and cunning. A story told of them well illustrates this difference. One day, while tramping through the forest, they came to a swamp and Ira bet Ethan he could beat him to a hickory tree on the opposite side. Ethan accepted the bet and without thought plunged into the morass and made his way directly across in mud and water up to his waste, and through briars and brambles which tore his clothes and lacerated his body, emerging from the jungle with tattered clothing and bleeding face and hands just as Ira who had taken a beaten path around the swamp reached the spot unscathed. While Ethan chased "Yorkers" and drank stone fence at the Catamount Tavern, Ira looked for fertile land.

Ira Allen was born at Cornwall, Connecticut, April 21 (old style) May 1, (new style) 1751. Unlike Ethan who in early life engaged in striking schemes such as building faulty iron furnaces and other failing financial ventures, Ira began his career in the humble but profitable business of buying and fattening pigs. In 1770, he purchased some New Hampshire rights in the town of Poultney, and having during the summer assisted his cousin Remember Baker in making surveys of wild land, determined to become a surveyor which art he soon acquired. Thereafter, he devoted his attention to surveying for himself and others, and to the acquirement of New Hampshire rights in various localities, soon possessing in the town of Hubbardton, alone over ten thousand acres. In the course of his surveying and wandering to and fro through the Vermont woods in quest of good land, he visited the territory in and around Burlington Bay and the mouth of the Onion River.¹ The situation there

¹ Now called Winooski River.

attracted his attention and he early conceived its great advantages for future settlement and commerce. His judgment has since been amply vindicated, Burlington the town he founded there having become the principal city of Vermont.² He determined to acquire the New Hampshire grants of the land in that vicinity and in furtherance thereof, he formed the Onion River Company of which Allen states:³

"Captain Baker came from Arlington to confer on these matters and five of us agreed to join in partnership viz, Ethan Allen, Remember Baker, Heman Allen, Zimry Allen and Ira Allen. The plan was then to purchase lands and furnish stores to commence settlement in the towns of Burlington, Williston, Shelburn, Colchester and Jericho. Baker and myself were to repair to Onion River in the spring and to see to business there, Ethan Allen to remain at Bennington, Poultney etc. to manage political affairs for the country or district of the New Hampshire Grants was in a state of war with the colony of New York, not in reality with the body of the people of the colony, but with the governor, council, Court Sycophants and land jobbers."

The purchase of these Onion River lands is thus interestingly told by Allen:

"Some of these lands were owned by Edward Burling and others at the White Plains, twenty-one miles from New York which we wanted. Col. Ethan Allen, Captain Remember Baker and myself armed with holsters and pistols, a good case of pistols each in our pockets, with each a good hanger, set out to purchase the aforesaid and other lands in the colony of New York. We traveled under the character of British officers, going from Canada to New York to embark for London and made no small parade. My brother, Heman being then in a mercantile line set out for New York but was seldom in company with us, as he was too well known on that road. We put up at a tavern near Mr. Burling's having previously concerted measures with Heman to acquaint Mr. Burling with our intentions and the reason for our travelling in that manner, the time we should call on him, etc. We proceeded accordingly and bought a great part of Mr. Burling's lands and bought of others—spent three days there without suspicion who we were."

Soon after the purchase, Ira Allen surveyed and marked

² The facts heretofore stated are from the *Autobiography of Ira Allen*.

³ *Ibid.*

a road from Castleton to the Onion River and spent the summer of 1773 surveying and exploring the country, while Baker engaged in clearing the land, erecting buildings and conducting farming operations. A block house was built in the prevailing style with port holes, over-hanging second story, and over a boiling spring for certainty of water. As far as possible everything was made attractive and secure as an inducement to purchasers. In this they were successful. Thomas Chittenden and Jonah Spafford two well-to-do and prominent men of Connecticut made extensive purchases of land and their investments as Allen says, "with other influences induced men of property and business to commence settlement there." The Allen land jobbing was proving a success in more ways than one. It not only afforded profit to the Onion River Company, but also created a clique of capable and well-to-do men, leaders in the resistance to New York and the establishment of the State of Vermont.

Allen concludes his statement: "From different considerations, Burlington would from its situation become a place of consequence; and the fertile intervalles, etc. adjacent being in large proportions owned by the Allen family might induce them to move to that part of the country, and by their influence and friends make it of consequence in their day both for commerce and society in the neighborhood. With these views I went and pitched a number of hundred acre lots contiguous to Burlington Bay. The land itself was the greater part poor looking pine land." This land being unsuitable for cultivation, Allen's friends were astonished that he should have made pitches there and apparently unsuspected his purpose. They could not conceive, as Allen did that this barren pine land would become the site of the most populous and important city of Vermont.

The Onion River Company purchased 77,622 acres of land, which was held for settlement and speculative purposes.⁴ Ira Allen was for years Surveyor General of Vermont and in that position had opportunity to acquaint himself with the best land in the state much of which he acquired for himself and his intimate friends.

While the situation of the small holders of New Hampshire grants was somewhat dubious, that of the speculators in these rights was extremely precarious. The former being actual settlers

⁴ Record of suit of Pamela Allen vs Ira Allen, in Vermont Supreme Court of Chancery of Rutland county, October 11, 1802.

and improvers were in a superior position because of their indubitable moral right which had been asserted by the British government, recognized by their colonial neighbors and disputed only by the insatiable New York land jobbers. However, the latter were formidable antagonists, strongly adverse to the slightest recognition of the Wentworth grants. They openly defied the just policy of the king's government and controlling the New York government, these land jobbers constantly strove to maintain its jurisdiction over the disputed territory, and thereby have the land titles determined in their favor in their own prejudiced and corrupt courts.

Naturally these actual settlers and improvers under the New Hampshire grants solidly backed the resistance to New York, which skillfully led by adroit leaders ultimately thwarted the pretensions of that government. These Vermont leaders were not only inspired by the sentiments of the actual settlers and improvers but were also actuated by the most potent personal motives. They were the possessors of extensive New Hampshire rights which were unsettled and unimproved. Submission to New York jurisdiction meant their irretrievable ruin. If New York succeeded, some compromise might be effected in favor of the actual settlers but unimproved grants held for speculative purposes would be immediately struck down. Hence the uncommon skill and zeal with which the Vermont chieftains pursued their successful course; and of these leaders Thomas Chittenden and the Allen family were the holders of the most extensive New Hampshire grants.

Their sole salvation was the independence of Vermont; and in the struggle for it, while Chittenden occupied the most conspicuous position, Ira Allen was the most adroit leader. Allen became the greatest landowner in Vermont and in addition to his interest in the Onion River Company is said to have possessed 200,000 acres. He established iron works and sawmills on the Onion River, shipped lumber and produce to Montreal, developed a large farm and established a large general store in Colchester, where he lived, promoted the town and port of Burlington and founded the University of Vermont. He incessantly struggled to sell his land and relieve the pressure of taxes and debt obligations, but was land poor and with failing business ventures and loss of political power, he broke under his financial burdens. In a vain effort to retrieve his fortune,

he went to France and purchased a quantity of arms, ostensibly for the purpose of a profitable sale to the militia of Vermont, but the British government suspected his designs, impounded his arms, and clapt him into prison. When released, he was unable to dispose of his arms and he returned to Vermont a ruined man. His lands were sold for debts and taxes, and a hopeless bankrupt he fled from the state he had created to escape imprisonment for debt and died in Philadelphia an exile from friends and family.

Ira Allen was a prince of promoters and his great promotion was the State of Vermont.

CHAPTER IV

WITS AND NOT WHIPS

As previously indicated, the territory east of the Green Mountains and along the Connecticut river was governed by New York, the settlements there having been organized by that province into the counties of Cumberland and Gloucester. However, sentiment was divided, those holding title to their lands under New York grants favoring that province, and those holding New Hampshire rights inclining to that colony.

In this region, the general unrest, prevailing throughout the colonies prior to the Revolution, also fomented and manifested itself in antagonism to those who supported the New York royal government and who were considered and designated Tories. In March, 1775, a mob, (the Whigs) composed of New Hampshire grantees, took possession of the Cumberland County court house at Westminster and prevented the holding of the county court. The sheriff attempting to enter was fired upon by the mob, and in retaliation he shot and killed William French and wounded another of those within the court house. In the disturbances which followed, the Whigs were supported by a band from New Hampshire, some Green Mountain Boys and a few men from Massachusetts. It was in no sense a conflict over the disputed titles, but was merely a pre-revolutionary episode like the Boston Massacre and Tea Party.¹

The people living west of the Green Mountains in the various towns and settlements that had spread out from the initial plantation at Bennington had governed themselves during the tumultuous years preceding the Revolution. Ira Allen in his *History of Vermont* written during his imprisonment in London says:² "The district of the New Hampshire Grants on revolutionary principles is the oldest in America. The people had governed themselves by Committees of Safety and Con-

¹ See depositions in *Doc. History of N. Y.*, IV 903 to 914.

² Allen, *History of Vermont*, page 75.

ventions against the oppressions and tyranny of New York eight years before the colonies of America took similar measures against Great Britain."

The outbreak of the Revolution and the astounding part of the Green Mountain Boys in the capture of Ticonderoga and Crown Point naturally inspired a more ambitious innovation of their government. Allen in his history states: "In the beginning of the year 1776, some of the leading men conferred on means to be recommended to the people for the establishment of civil government, which appeared necessary to effectually carry on the war, raise men and money and to secure the titles of the lands against the latent intentions of the governor of New York. These men differed in opinion about a plan, though all were convinced that their own and their country's interest required a connection with New Hampshire or an establishment of a new government; no one of them dreamed of ever associating with New York, whose late persecuting conduct and system of government rendered that colony the most detestable of any on earth."

In pursuance of these designs, a convention was held at Dorset January 16, 1776; and an adjourned meeting of it held July 24th, but in the meantime May 30th, Heman Allen presented a petition to the Continental Congress setting forth the situation of the Grants and the impossibility of their ever submitting to the jurisdiction of New York, and by his report of his mission made to the July 24th convention it appears his petition did not affect Congress. The committee appointed by this convention and composed of Heman Allen, Dr. Jonas Fay and Colonel William Marsh appeared before the committees of Cumberland and Gloucester counties meeting at Windsor, August 7th and "read several papers some of which ascertain the Boundaries they propose for a new state and invited the committee to sign a paper; they had consulted with several members of the Continental Congress who advised them to collect the sense of the people on the subject."³

It is evident that at this time, Ira Allen and those acting in collusion with him had determined on a new state and that he had won the dissenters by the potent argument set forth in his history, "That a new government would infallibly establish

³ Report of James Clark, chief of Committee, *Doc. History of N. Y.*, IV, 922.

the title of their lands under the New Hampshire grants and that the unappropriated land might be disposed of to defray the expenses of government and the war.”⁴

However, in accomplishing this daring design, they exercised great caution and gradually prepared the minds of the people for its acceptance. “The result of their deliberations was to establish a new government, accordingly great care was taken to prepare the minds of the people for such an event and to effect the important object.”⁵

Another adjourned meeting was held at Dorset, September 25th and there were present in all forty-four delegates representing twenty-five towns west of the Green Mountains and eight towns from the east side, represented by eleven delegates in person and two by letter. Thus a beginning was made in uniting the distracted territory. Resolutions were adopted regulating the militia and internal affairs and a declaration was drawn and signed by forty-five covenanting to adhere to the several resolves passed at this or future conventions constituted in said district.⁶

Adjournment of this convention was made to Westminster, which met October 30th, but as only seventeen delegates were present it was adjourned to meet at the same place January 15, 1777. This convention, although attended by only nine delegates from the territory west of the Green Mountains and thirty-four delegates from east of that range, proclaimed the independence of Vermont. Joseph Bowker was chairman, Ira Allen, clerk and Dr. Reuben Jones, assistant clerk. A committee of which Ebenezer Hoisington was chairman, to ascertain the sentiments of the people, reported: “We find by examination that more than three fourths of the people in Cumberland and Gloucester counties that have acted are for a new state, the rest we view as neuter.”⁷ The declaration adopted was in this form, “do proclaim and publicly declare that the district—New Hampshire Grants is hereby declared—a free and independent jurisdiction or state by the name of New Connecticut.”⁸ A committee composed of Jonas Fay, Thomas Chittenden, Reuben Jones, Heman

⁴ Allen, *Hist. of Vermont*, 75.

⁵ *Ibid.*

⁶ *Doc. Hist. of N. Y.*, 920.

⁷ *Records of Governor and Council of Vt.*, Vol. I, page 39.

⁸ *Ibid.*, page 41.

Allen and Jacob Bailey was appointed to present the declaration to Congress and petition it to admit delegates and recognize New Connecticut as an independent state. It appears that all of the committee except Bailey presented the declaration and petition to Congress, which refused to consider it.

In Philadelphia, this committee met Dr. Thomas Young, the early friend of Ethan Allen, who in a long letter addressed to the inhabitants of the new state, advised them to set up a regular state government and adopt a constitution, using that of Pennsylvania as their model.⁹ This advice in the letter was followed by a convention held at Windsor, June 4th, which was attended by thirty-seven delegates from east and thirty-five delegates from west of the Green Mountains. The name of the new state was changed from New Connecticut to Vermont, because the Wyoming settlements had been called New Connecticut. A committee of safety was authorized to seize the persons and estates of Tories and the convention was adjourned to July 2nd.

The adherents of New York residing along the Connecticut river were not indifferent to the development of the new state, but were apparently too feeble to effectually resist it and contented themselves with a declaration of loyalty to New York, a protest against the new state and the appointment of Israel Smith to represent them.¹⁰ His representations provoked the report of a committee of the New York Provincial Congress, which however, recommended no immediate and effectual action.¹¹ In answer to a communication received from others, the New York Council of Safety, however, resolved to appeal to the Continental Congress;¹² and this appeal together with a previously written letter, by Pierre Van Cortland, president of that body, to Congress, complaining that certain members of Congress countenanced the new state movement, moved Congress, who by resolution adopted June 30th, declared that the independent movement attempted in the New Hampshire Grants can deserve no countenance or justification from any acts of Congress, and that the petition of Jonas Fay, Thomas Chittenden, Heman Allen and Reuben Jones praying that the district

⁹ *Doc. Hist. of N. Y.*, IV., pages 934 to 936.

¹⁰ *Ibid.*, 936.

¹¹ *Ibid.*, 937 to 940.

¹² *Ibid.*, 942, 943.

be ranked as an independent state be dismissed; and that the officering of Colonel Warner's regiment was not intended as encouraging an independent state; and that the letter of Thomas Young (complained of as containing allusions to the attitude of members of Congress) was derogatory to the honor of Congress.¹³

Printed copies of this resolution were freely circulated throughout Vermont with intent to counteract the new state movement; but were of little effect as New York had recently adopted a constitution, reaffirming therein the validity of its prior grants in the disputed district, together with insistence on the hated quit-rents. This provision greatly accelerated the new state movement, so much so, that Jacob Bayley, the most influential supporter of New York wrote, "the people before they saw the New York constitution were not willing to trouble themselves about separation but now almost to a man they were violent for it."¹⁴

Under these circumstances, the convention met at Windsor, July 2nd; and had before it, the proposed constitution, based on that of Pennsylvania, with some modifications and additions, such as the prohibition of slavery, the first act of the kind passed in any of the states when as has been stated: "The convention had it under consideration, when the news of the evacuation of Ticonderoga arrived, which alarmed them very much, as thereby the frontiers of the States were exposed to the inroads of an enemy— In this awful crisis the convention was for leaving Windsor, but a severe thunderstorm came on, and gave them time to reflect, while other members less alarmed at the news called attention of the whole to finish the constitution, which was then reading paragraph by paragraph for the last time. This was done and the convention then appointed a Council of Safety to act during the recess and the convention adjourned."¹⁵ The election of a General Assembly was authorized in the following December.

Tediously but necessarily we have traced the steps by which Vermont proceeded to the declaration of its independence and the adoption of its constitution; and it is now well to direct our thoughts to the consternation caused by the Burgoyne invasion.

¹³ *Ibid.*, 944, 945, 946.

¹⁴ Hall, *Early History of Vermont*, page 249.

¹⁵ Allen, *History of Vermont*.

The adjournment of the convention left the direction of affairs in the hands of the Council of Safety of which Thomas Chittenden was elected president, Jonas Fay, vice president and Ira Allen, secretary. Allen says:¹⁶ "The Council of Safety had no money or revenue at command—yet in this situation it became necessary to raise men for the defense of the frontier. Nathan Clark not convinced of the practicability of raising a regiment moved in Council that Ira Allen the youngest member of Council, and who insisted on raising a regiment, while a majority of the Council were only for two companies of sixty men each, might be required to discover ways and means to raise and support a regiment and to make his report at sun rising on the morrow— Next morning he reported the ways and means to raise and support a regiment viz, that the Council should appoint Commissioners of Sequestration with authority to seize the goods and chattels of all persons who had or should join the common enemy which should be sold at public vendue and the proceeds paid to the Treasurer of the Council of Safety for the purpose of paying the bounties and wages of a regiment forthwith to be raised for the defense of the State. The Council adopted the measure and appointed officers for the regiment. Samuel Herrick was appointed colonel, and the men enlisted and the bounties paid in fifteen days out of the confiscated property of the enemies of the new state."

Allen as secretary of the Council sent a letter to the Assembly of New Hampshire requesting their assistance, and in response thereto, that state appointed John Stark brigadier general of a brigade, which when raised was to march to Vermont. General Stark with this brigade reached Bennington August 9th, and ordered Colonel Seth Warner who with his regiment was at Manchester to join him.

Colonel Baum with a detachment of the Brunswick Dragoons had been dispatched by Burgoyne to seize the stores collected at Bennington, and on the 14th arrived at a place just over the New York border and within a few miles of Bennington. On the 18th at 3 o'clock in the afternoon, Stark attacked Baum on every side. The Indians under him broke and fled and Stark's rifle men played havoc with the German troops. After two hours of hard fighting, the British resistance faltered and the

¹⁶ *Ibid.*, page 95.

Americans poured over the breastworks and fought the enemy hand to hand. Baum was mortally wounded. Herrick's Rangers were pursuing those of the British who had not surrendered, when they encountered enemy reinforcements under Colonel Breyman. Stark and Warner came to Herrick's assistance. The battle was renewed and lasted until sunset, when Breyman retreated leaving his cannon and wounded behind.

It may be said, the Battle of Bennington confirmed the independence of Vermont, and after Burgoyne's surrender it suffered little from the invasion of a foreign foe; but to organize the new state and create united sentiment in its favor by healing the wounds of internecine strife taxed the wits of its most adroit leaders. In this work, Ira Allen appears to have performed the most conspicuous part. He was indefatigable. By printed appeals to the people of Vermont and by personally circulating copies of the constitution, he brought the merits of the controversy to public attention and consolidated sentiment.

The convention which met at Windsor in December 1777, "revised the constitution and appointed the first election to be on the 12th of March, 1778. Had the constitution been then submitted to the consideration of the people—it is very doubtful whether the majority would have carried, considering the resolution of Congress, and their influence at that time as well as the intrigues and expense of the Provincial Congress of New York who endeavored to divide and subdivide the people." ¹⁷

Governor Clinton issued a proclamation in February, 1778, promising, in case of accepting the jurisdiction of New York and withdrawing allegiance to the pretended state of Vermont, an absolute and unconditional discharge and remission of all prosecutions, penalties and forfeitures under the Act of Outlawry passed by the colonial government; a confirmation of title of lands improved and held under grants of New Hampshire and Massachusetts and not granted under New York; a confirmation of all improved possessions not granted by either of these governments and of contiguous vacant land not exceeding three hundred acres; confirmation of titles and possessions of lands granted by either New Hampshire or Massachusetts notwithstanding posterior grants by New York; trial of all cases concerning controverted lands according to the rules of equity

¹⁷ *Ibid.*, 107 to 110.

without adhering to strict rules of law; and reducing and adjusting fees and quitrents.¹⁸

On its face this seems a fair promise, but under the reservation "not granted by New York" and the provision for trials of controverted titles in New York courts lurked danger for the average holder of New Hampshire rights. It was bound to be rejected by the owners of large unimproved New Hampshire grants, so that notwithstanding this seemingly alluring bait, the March elections were held and members of the Assembly and officers of the new state were chosen.

How this was accomplished in spite of the endeavors of New York is told:¹⁹ "Mr. Allen returned from Hartford in Connecticut, a few days before the time of the general election with the constitution printed and dispersed it. There was one or more in each town, who coveted the honor of being a member of the first general assembly of the new state of Vermont. It was therefore their interest to induce their friends to attend the meeting and take the freeman's oath. This was done and representatives were elected and attended the Assembly at Windsor on the 12th of March, 1778, when and where the votes of the freemen for Governor, Lieutenant Governor, twelve Commissioners and a Treasurer were sorted and counted, and the persons who had the majority of votes for the respective offices were declared duly elected."

In personally distributing the printed copies of the constitution through the Vermont towns, just before the election, Ira Allen had a rare opportunity to set up the various candidates for the assembly and electioneer for the state officers. That he was a good politician is evident, his slate being chosen: Thomas Chittenden governor, Joseph Marsh lieutenant governor, Ira Allen treasurer and twelve of his designated members of the council including himself. Seth Warner was appointed brigadier general of the militia.

"In order to make the new government popular and heal the existing dissensions no taxes were levied on the people, sufficient revenue being received to support the government by confiscating the properties of its enemies and by granting vacant public lands. By pursuing this policy new and firm friends were added to the government. The other New England states were

¹⁸ *Doc. Hist. of N. Y.*, IV, 751 to 756.

¹⁹ Allen, *Hist. of Vt.*, 110.

heavily taxed to carry on the war, while in Vermont no one had to pay taxes, and this greatly promoted migration into Vermont, and those who came with that view were staunch friends to the new government.”²⁰

The greatest danger besetting Vermont at this time was the attitude of sixteen New Hampshire towns lying east of the Connecticut river. These towns contended that as New Hampshire existed by reason of the grant to John Mason which extended only sixty miles from the sea, and they were beyond that limit, they were without its jurisdiction, and being in a state of civil nature, consequently had the right to resolve themselves as they saw fit. Therefore, they petitioned the Assembly of Vermont to admit them to its jurisdiction. Their ostensible purpose was to establish the capital and metropolis of Vermont on the Connecticut river; and this assured them the support of the Vermont towns east of the Green Mountains. Privately, some of the leaders of this movement, notably the New York adherents hoped thereby to destroy the existence of Vermont as a separate state.

The New Hampshire government had been friendly to Vermont and had practically recognized its independence. The admission of these towns would be an act of hostility to New Hampshire and actuate its antagonism in the Continental Congress and perhaps lead to open war.²¹ Governor Chittenden, Ira Allen and other leaders mainly from western Vermont realized this danger and immediately took measures to prevent the connection, but found themselves outnumbered in the Assembly, which in June, 1778 resolved to admit the sixteen towns.

Ethan Allen released from British captivity, and now returned to Vermont was sent to Philadelphia to ascertain the attitude of Congress toward the new state; and on his return reported to the Assembly held at Windsor, in October, 1778, “except this state recede from such union with the New Hampshire towns immediately the whole power of the Confederacy of the United States of America will join to annihilate the State of Vermont.”

Nevertheless, the Assembly appointed a committee to draw a bill to divide the state into four counties; but before it reported, it appears Ira Allen, who was an adept politician, had maneuvered the Assembly into a position, which precluded the

²⁰ *Ibid.*, 111.

²¹ *Ibid.*, 113.

necessity of such report. By a secret canvass of the members and potent arguments he had convinced a majority to have a vote on three questions, which he had submitted for their consideration. The first question was, Whether the counties shall remain as established at the last session of the Assembly? The vote on this question was Yeas 35, Nays 26. The second question was: Whether the towns east of Connecticut river, included in the union with this state shall be included in the county of Cumberland? The third question was: Whether the towns on the east side of Connecticut river, who are included by union with this state shall be erected into a distinct county by themselves? Allen and his cohorts contrived to have the second and third questions voted on together and by so doing forced those who were in favor of the union but who opposed the New Hampshire towns being included in Cumberland county to vote no; and thereby secured a negative vote of 33 to 28. By the vote on the first question, the counties were to remain as they were and by the vote on the second and third questions could not be included in Cumberland county and could not be erected into a distinct county. They had no place to go and were out in the cold.

Twenty-five of the defeated twenty-eight assemblymen then signed a statement, declaring that by the vote the sixteen towns were effectually debarred from Vermont and withdrew. The remainder constituting a quorum appointed Ira Allen to explain their proceedings to the General Assembly of New Hampshire and then adjourned to meet at Bennington, the following February, 1779. Allen's explanation seems to have been satisfactory to New Hampshire.²²

However, Lieutenant Governor Marsh issued a call for a convention to be held at Cornish, New Hampshire in December and the malcontents headed by Jacob Bayley, Elisha Payne, and Beza Woodward issued a pamphlet favoring the annexation of all the territory embraced in the New Hampshire Grants to the state of New Hampshire. The Cornish convention declared: "We will consent that the whole of the Grants connect with New Hampshire and become with them an entire state." This declaration received little support from the Vermont towns but it did disclose that the real motive of the annexation leaders was the formation of a government the center and seat of which would be on the Connecticut river. "This would be effected

²² *Ibid.*, 116.

either by connecting a considerable part of New Hampshire with Vermont or by breaking up the government of Vermont and connecting the whole of it with New Hampshire.”²³

The Vermont Assembly, which convened at Bennington, February 11, 1779, by a large majority dissolved the union with the sixteen New Hampshire towns and appointed Ethan Allen, Jonas Fay and Paul Spooner delegates to Congress. The New Hampshire Assembly voted not to extend its jurisdiction west of the Connecticut river until otherwise directed by Congress. (Clinton Papers, Vol. V, page 132.)

The dissolution of this union, which had threatened the destruction of Vermont was a severe disappointment to the extreme adherents of New York and stimulated them to seek the immediate and forcible action of that state against Vermont. Samuel Minot, chairman of the New York committee of Cumberland county and Colonel Eleazer Patterson who pretended to have a New York militia regiment of five hundred men under his command besought Governor Clinton's support, complaining in their letters of the confiscation of their properties and other oppressions by the Vermont authorities. Their activities and refusal to render military service in defense of the frontier impelled Governor Chittenden to evoke the aid of Ethan Allen in quelling their resistance. Allen donned his old uniform with all its gold braid and shiny buttons, buckled on his great sword again and with his valiant Green Mountain Boys descended from the hills into Cumberland county, dispersed the fabulous regiment of five hundred men and clapt Colonel Patterson with all his captains into the jail at Westminster without pulling a trigger or firing a shot. In despair Minot wrote Governor Clinton: “Our situation is truly critical and distressing, we therefore humbly beseech your Excellency to take the most speedy and effectual measures for our relief or *otherwise our Persons and property must be at the disposal of Ethan Allen which is more to be dreaded than death with all its terrors.*”²⁴

Such wanton disregard of his authority and monstrous treatment of his friends, gubernatorial dignity could no longer endure and while avoiding a personal fracas with the terrible Allen, Clinton good politician that he was began a furious campaign

²³ *Ibid.*, 117.

²⁴ *Doc. Hist. of N. Y.*, IV, pages 957 to 966.

in Congress. By a barrage of letters he made a terrific assault on its members who capitulated and appointed Oliver Ellsworth, and Jesse Root of Connecticut, Timothy Edwards of Massachusetts, Dr. Witherspoon of New Jersey and Colonel Atlee of Pennsylvania, a committee to look into the terrible doings in Vermont.²⁵

Whether by design or otherwise, the New England members of the committee did not cooperate and only Witherspoon and Atlee appeared at Bennington. On June 23rd they addressed a letter to Samuel Minot advising the New York adherents to furnish their full proportion of men for the military and admonishing them that failure to do so would be imputed as "disaffection to the cause of the United States." The failure, of these people who were charged with Tory sympathies to furnish soldiers and supplies against the British, incited the confiscations and imprisonments by the Vermont authorities. The loyal people of Vermont apparently proceeded against them as Tories and not Yorkers.²⁶

Governor Chittenden's attitude toward the committee was conciliatory and cooperative. He freely answered their inquiries regarding the status of the conflicting grants of land; but in answer to the question: "Are you satisfied that the Proclamation by the Governor of New York would secure your property in the soil, tho' the jurisdiction were allowed?" he answered firmly, "By no means," and pointed out that it was but the shadow of a promise and an attempt to delude the people. His opinion was that the people of Vermont would be happy to have the controversy with New York determined by Congress providing they had equal privileges in supporting their cause.²⁷

The failure of the committee to cooperate and report impelled New York to forward instructions, August 27th to its delegates in Congress, observing therein that the disputed territory was indisputably included within the jurisdiction either of New York, New Hampshire or Massachusetts; consenting that the determination of the right of soil between claimants under New York, New Hampshire or Massachusetts be made either immediately by Congress themselves or in such manner as they shall think proper; and conceding that on all questions relative

²⁵ *Ibid.*, 966 to 977.

²⁶ *Ibid.*, 977.

²⁷ *Ibid.*, 978 to 981.

to the right of soil New York should not vote. These instructions were peremptory and closed with, "Should we, however, be disappointed and Congress decline to interfere by an express resolution as above proposed, we do in such case direct Mr. Jay, to whom we have in a special manner committed this Business, immediately to withdraw and attend us at this place."²⁸

Congress could no longer evade the issue and in response to the persuasive and persistent importunities of John Jay did on September 24th pass a resolution providing that, "Whereas disputes subsist between New Hampshire, Massachusetts and New York on the one part and the people of the New Hampshire Grants, who deny the jurisdiction of each of said states claims and each of said states claims the district against each other, as well as against the said people; and recommending that New Hampshire, Massachusetts and New York forthwith pass laws authorizing Congress to determine said differences, so that it may proceed by February 1, 1780." These resolutions contained other provisions necessary to carry the same into effect and admonitions as to the behavior of the respective parties in the meantime.²⁹

The statement as to the contending parties was not strictly correct, as Massachusetts had made no claim to the disputed territory. Mr. Jay found conflicting sentiment in Congress and open opposition on the following grounds: (1) action should be postponed because the Articles of Confederation had not been adopted; (2) it was improper to divert the attention of Congress from the war; (3) harsh measures against Vermont might induce it to join the enemy; and (4) that they possess a strong country and are a warlike and determined people and to reduce them would require a larger force than could be spared. More private and potent reasons of opposition were: (1) persons of consequence in Congress and New England expect to profit in Vermont lands; (2) Vermont gaining strength by time would become actually independent; (3) Vermont would become a fifth New England state and add strength to that section; (4) ancient animosities between New York and New England inclined the latter to favor Vermont. The pertinency of Mr. Jay's observations become apparent in a further consideration of the dispute.

²⁸ *Ibid.*, 987 to 992.

²⁹ *Ibid.*, 992.

While it was resolved that the people inhabiting the Grants should be heard, Vermont as a state was ignored and treated as a nullity. There is little doubt but that Mr. Jay was the guiding hand in framing the resolutions and that they were so shaped as to make inevitable a determination in favor of New York.

Although dismayed by the action of Congress, the Vermont leaders assumed a bold front and confronted the situation with audacity. "The resolves of Congress arrived in Vermont a little before the session of the General Assembly in October, 1779—the friends of New York exulted against Vermont.—When the Assembly convened nine-tenths were for suspending the sale of confiscated property and the granting of lands till after the 1st of February, but a few saw the design of the New York junto was to cut off the resources, and to prevent the migrations of persons from other states who became internal friends.—After fourteen days consultation, the Governor, Council and General Assembly in Grand Committee recommended to the Legislature to grant the whole of their unlocated lands and sell the confiscated estates—which recommendation was approved by unanimous resolves."³⁰

On the first of February, 1780, there were not enough of the states represented in Congress for the consideration of the Vermont business and it was necessarily delayed. Vermont was represented by Jonas Fay, Moses Robinson and Stephen R. Bradley who lodged with Congress documents setting forth Vermont's position. Since September, Ira Allen, Ethan Allen and others had been doing missionary work in the various states and had evidently changed some Congressional sentiment in their favor. New York and New Hampshire had taken action authorizing submission of the dispute to Congress, but Massachusetts had abstained from passing the law required. Vermont as a state avoided any action or conduct which even implied the submission of its existence to the determination of Congress.

Congress did nothing about Vermont until June, when a resolution was passed continuing the proceedings of the people on the New Hampshire Grants. It was in a dilemma and action on the Vermont controversy was postponed until the second Tuesday in September.

³⁰ Allen, *Hist. of Vermont*, 133.

On September 19th, the Vermont controversy was considered by "a prolonged discussion." An able letter from Governor Chittenden stating Vermont's position was read. New York and New Hampshire stated their cases. The representatives of Vermont refused to attend the session although solicited by Congress to do so. Later John Sullivan wrote President Weare of New Hampshire about this session of Congress as follows: "The arguments ran so much against New York, that the agents who were before pressing a decision have never mentioned since and there it rests at present." That this was the situation is borne out by a letter written by John Morrin Scott to Governor Clinton (Clinton Papers VI, 254) stating: "If we press for a determination we may gain by a bare majority and even this depends upon the prospects we have of New Jersey."

General Sullivan's words were prophetic for there it has rested ever since. It may be questioned: Why all this avoidance and delay by Congress?; and Why was the persistency and aggressiveness of New York so intermittent? In answer, it may be said Congress at the time was about the weakest thing in America. It was mainly composed of indifferent men, some of them rogues with mercenary motives or traitorous instincts. The New England delegates either because of kinship or natural hatred of New York mostly favored the independence of Vermont. The Pennsylvanians having a similar controversy with Connecticut about the Wyoming Valley sided with New York. The members from Virginia and North Carolina were inclined the same way, because they viewed with suspicion the separatist tendencies of the pioneers who had gone over the mountains into Kentucky and Tennessee. With this divided opinion and the difficulty of resisting the British, Congress doubted its ability to cope with the dangerous Green Mountain Boys. Moreover, there was a disinclination to push Vermont too far and hazard its alliance with the British, for even then there may have been suspicions that Ethan Allen was dickerings with General Haldimand, Governor General of Canada. On the other hand it was impolitic to decide against the pretensions of the New York government. Congress was between the devil and the sea; and the course, of cunning and cowardly politicians, as usual in such cases, was avoidance and delay.

The sentiment of New York was divided. The state was full of Tories, who wished the independence of Vermont, be-

cause the dismemberment of the state would impair the power of the hated Whig government. Many loyal Whigs in the northern part of the state and in and about Albany, who were tired of the strife and regarded it merely as a struggle of New York landjobbers secretly favored Vermont. It was rumored that General Schuyler was privately of that opinion. The powerful and persistent foe of Vermont was George Clinton, governor of New York and he was ably assisted by John Jay, James Duane and other influential leaders. However, real support from the body of the people was lacking. In Congress, the governor and his supporters were powerful, but he and his clique of politicians never dared resort to the test of arms.

These were the reasons why Vermont prevailed. Geographically, it was a rugged land wedged between the Connecticut river and Lake Champlain; physically detached from New York; and economically as useless to it as the fifth wheel to a wagon. It was far removed from the New York seat of government; and its natural commercial outlet was not the Hudson river but through Lake Champlain to the St. Lawrence. Its most natural connection, governmentally, was with New Hampshire, but divided from it by the Connecticut river. The two together would, however, constituted a diverse union of an anciently settled conservative people with ill-assorted and daring pioneers. Nature made it a land by itself and its green hills overcast by lofty mountains fostered the spirit of Vermont, the freedom and faith of its people.³¹

³¹ See Clinton Papers, Vol. III, 171, 172, 262, 366, 367, 396, 536, 551, 698; Vol. IV, 295, 396, 565; Vol. V, 170, 18, 19, 89, 97, 98, 108, 110, 136, 301, 309, 310, 394, 490, 797, 798, 837.

CHAPTER V

BRITISH INTRIGUES

Although at this time the destruction of the new state was not imminent, the Vermont leaders were badly scared. Congress delayed and New York doubtful of the outcome concurred. Vermont's situation was not alarming. Circumstances were shaping and conditions prevailing which made independence inevitable. Yet, with the dispute in the hands of Congress and undetermined, one of the following contingencies might happen: the jurisdiction of Vermont awarded to New York; awarded to New Hampshire or divided between New York and New Hampshire. One thing was certain, so long as New York objected, Congress would not recognize the independence of Vermont and admit it to the Confederation. In any event, the actual settlers who held under New Hampshire rights prior to New York grants would be secured in their possessions; and so would those holding merely by possession or by New Hampshire rights, lands ungranted by New York. If either of these contingencies happened, unimproved New Hampshire grants would be cancelled and extensive holders like the Onion River Company, the Allens, Chittenden and other principal men would be absolutely ruined. Their only salvation was to maintain the independence of Vermont, and to this end they directed their untiring efforts for years.

Badly scared, they were, nevertheless, bold and resourceful men, daring and determined to take every chance to save themselves. They could make an alliance with the British or carry on negotiations with them sufficient to scare Congress and not compromise themselves. They could attempt to secure New York's agreement to their independence or by various moves scare both New Hampshire and New York into inactivity.

Their flirtation with the British is the longest, most intricate and interesting of their intrigues. At this time, the thirteen confederated states were in the throes of dissolution. Some

prominent characters, since immortalized as patriots, were then on the British lists as prospective traitors. The British generals were thoroughly conversant with and alive to the anomalous situation of Vermont, which was neither a member of the rebel confederation nor an adherent of the crown. Since their great exploit at Ticonderoga, except to defend themselves at Bennington, the Green Mountain Boys had taken little actual part in the struggles of the Revolution. Their great leader, Ethan Allen was now only a sort of honorary colonel on the rolls of Congress, and unemployed and ill-considered. With few Vermont sins to forgive, the British could well overlook the unforgettable disgrace at Ticonderoga and recognize and maintain the independent state of Vermont either as a neutral or in alliance with Canada.

Both Sir Henry Clinton at New York and General Haldimand at Quebec angled to secure Vermont. Before Congress considered the Vermont dispute in September, at the instance of General Clinton, Beverly Robinson, a New York loyalist, who had a principal part in the traitor Arnold business, wrote a letter of seduction to Ethan Allen. It was written in March but not delivered until July and then by a disguised messenger.¹ Robinson presumed Allen was in a receptive mood and his letter stated: "I have been informed that you and most of the inhabitants of Vermont are opposed to the wild and chimerical scheme of the Americans in attempting to separate the continent from Great Britain and to establish an independent state of their own; and that you would willingly assist in uniting America again to Great Britain and restoring that happy constitution we have so wantonly and inadvisedly destroyed.—I think upon you taking an active part and embodying the inhabitants of Vermont in favor of the crown of England—that you may obtain a separate government under the king and constitution of England and the men formed into regiments under such officers as you shall recommend and be on the same footing as all the provincial camps are here."

It has been presumed that Ethan Allen showed this letter to Governor Chittenden immediately after its receipt but from others it was apparently withheld. Early in 1781, Beverly Robinson wrote another letter, which was secretly transmitted by Samuel Rose, a Tory refugee and delivered to Ethan Allen

¹ Allen, *Hist. of Vermont*, 150.

at Arlington, wherein he states: "The frequent accounts we have had—confirm me in the opinion I had of your inclination to join the king's cause." Robinson again urged Allen to join the British and assures him of obtaining liberal terms.

In the meantime, grave rumors respecting Allen's conduct were circulating. Washington distrusted him and he was under suspicion in Vermont, so much so that Seth Warner, apparently a straight forward man and no intriguer stated to John Williams the following occurrence:² "In consequence of he, Warner being informed of General Allen's receiving letters from the enemy, that he went to said Allen and upon mentioning the matter, Allen denied that he had received any letters, but on close examination, he confessed of having received two letters, one of which he burnt and the other he delivered to the Council, when sitting at Arlington, and that Colonel Warner informed me one of the letters was from Beverly Robinson in New York."

Allen was in a tight spot. His conduct and explanations were somewhat equivocal. He at first denied having received any communications and when cornered, admitted having received two letters, one and not two from Beverly Robinson. Concealment no longer possible, Allen in characteristic style boldly threw his cards on the table and sent both letters to Congress, and wrote that body: "I do not hesitate to say I am fully grounded in opinion that Vermont has an indubitable right to agree on terms of cessation of hostilities with Great Britain, provided the United States persist in rejecting her application for a union with them." No mention is made in this letter of the other intrigue then going on through Sherwood with Haldimand, which was of longer duration and will be fully considered hereafter.³ This exposure of the Robinson letters seems to have ended further direct negotiations with General Clinton at New York.

While Ethan Allen as the creator and conductor of the Bennington mob won the independence of the New Hampshire Grants, his brother Ira Allen, by his considerably conceived schemes, efficiently executed, created the state of Vermont. One of Ira Allen's most audacious schemes was the successful lobbying of the legislature of New York. He wrote a letter, which

² *Clinton Papers*, IV, 777.

³ *Ethan Allen Manuscripts*, Vermont State Library, 347.

he had Governor Chittenden sign, to Governor Clinton positively demanding that New York give up and fully relinquish that state's claim to jurisdiction over the state of Vermont.⁴ In the letter, Allen appointed himself messenger to deliver it and thus commissioned he repaired to Albany. The communication from Chittenden was duly submitted by Clinton to the legislature with this caustic condemnatory note of "a document so insolent in its nature and derogatory to the honor of the state."

As designed by Allen, this submission of the letter brought the demand before the legislature and gave him an excuse for being there. Governor Clinton reckoned without his host for Ira Allen was a dangerous man to be around when legislatures were in session. In that mysterious way by which he accomplished things or as was said by Clinton, "every engine set to work to prepare the members as they arrived to accede to it." Ira Allen succeeded in winning a majority. It is said that he had General Schuyler as one of the main props in his campaign which resulted in the Senate passing with hardly a dissenting vote, a resolution appointing commissioners to settle terms with Vermont for a cession of jurisdiction by New York. The House of Representatives would have done likewise, but the vigorous Clinton had viewed with rising wrath this revolutionary proceeding, so contrary to his admonition and he sent the House a peremptory message, that if they should attempt to agree with the Senate, he would prorogue them.⁵ Rather than be sent home, they desisted, but the Senate resolution still stood as notice to Congress and the country that the New York opposition to Vermont consisted of George Clinton and the landjobbers.

Another of Allen's schemes promoted in conjunction with Luke Knowlton, a suspected Tory and former New York supporter was more effective. Suspecting New York and New Hampshire were planning to divide Vermont between them, Allen conceived the plan, and from other motives Knowlton went along with him, of separating from New Hampshire the Connecticut river towns and thus paralyze that state with fear. Knowlton hatched up a meeting at Walpole, New Hampshire, which called a convention at Charlestown on January 16, 1781 to consider a union of the New Hampshire towns with Vermont. This con-

⁴ *Clinton Papers*, IV, 430 to 437.

⁵ *Ibid.*, 741 to 745.

vention which was composed of delegates from forty-three towns, many of them members of the New Hampshire Council and Assembly passed a resolution to annex all the Grants to the state of New Hampshire. This action upset their plan, but Allen and Knowlton regained control of the convention and succeeded in reversing this action and passing a resolution to unite all the territory of New Hampshire west of the Mason line and extending to the Connecticut river with the state of Vermont.⁶ How they influenced the delegates has been the subject of inferences and conjectures, but it may be safely presumed they employed the lobbyist's usual methods of appealing to every mercenary motive, by promising everything and denying nothing.

One of Allen's objects was now attained and New York not having relinquished its claim to Vermont, he set in motion a movement to secure the other. In February, the Vermont Assembly adopted a committee report laying claim to that part of New York lying between Vermont and the Hudson river.⁷ Subsequently, a committee was appointed⁸ to attend a convention at Cambridge, New York to agree on a union of this part of New York with Vermont. Articles of union were adopted at this convention;⁹ and these articles were ratified by the Vermont Assembly at Bennington, on June 15th and fifteen members from the annexed New York towns were seated. The Assembly was now composed not only of the regular Vermont members, but also of those from the annexed New Hampshire and New York towns. Vermont was now riding high, as both New York and New Hampshire were greatly alarmed, by this attempted dismemberment of their states, and put on the defensive.

Among the inducements, which led the New York people to cast their fortunes with Vermont was the fear of a British invasion and the expectation that Vermont could and would better protect them from such an incursion than New York.¹⁰

On July 18, 1781, Governor Clinton issued a proclamation commanding obedience to him by the people and magistrates within the annexed New York towns.¹¹ The New York delegates

⁶ Allen, *Hist. of Vt.*, 148.

⁷ *Clinton Papers*, VI, 642 to 644.

⁸ *Ibid.*, 760.

⁹ *Clinton Papers*, IV, 865 to 867; *Doc. Hist. of N. Y.*, 1004, 1005.

¹⁰ *Ibid.*, 1008, 1009.

¹¹ *Clinton Papers*, VII, 94.

to Congress wrote Clinton, August 7th: "There are several drafts on the table for settling the business, each specifying or implying the Independence of Vermont."¹² Congress had been moved by the vote of the New York Senate relinquishing all claims to Vermont and by the annexation of the New Hampshire and New York towns and on August 7th resolved¹³ that a committee of five be appointed to confer with agents of the people residing on the New Hampshire Grants west of the Connecticut river or by their representative body, regarding their claim to be an independent state and on what terms it may be proper to admit them. By this resolution, the recognition of independence was predicated on the assumption that the annexed New Hampshire and New York towns would not be included within the limits of Vermont. This action was transmitted in a letter written by Thomas McKean, president of Congress.¹⁴

Governor Clinton answered McKean's communication, stating: "I have only to observe that this state will undoubtedly acquiesce in any decision of Congress made agreeable to the submission or the Articles of Confederation; but whether the present procedure is warranted by either is not within the line of my duty to determine."¹⁵ This acknowledgment indicates a considerable modification of Clinton's former vigorous opposition to Vermont's independence and that he was not invulnerable to the threatened dismemberment of his state.

Ira Allen and Dr. Jonas Fay Vermont, agents to Congress, on August 18, 1781, submitted to that body a written proposition, asserting they had formed the union under the apprehension that the district known as the New Hampshire Grants east of the Connecticut river did not belong to New Hampshire; and that the district including the New York towns did not belong to that state; and proposing that Vermont with boundaries practically as set forth in the Congressional resolution be recognized as a separate state, and that the claims of New York and New Hampshire to the annexed towns be determined according to the mode prescribed by the Articles of Confederation, Vermont being a party to the dispute.¹⁶ They estimated the

¹² *Ibid.*, 175.

¹³ *Ibid.*, 177.

¹⁴ *Ibid.*, 175.

¹⁵ *Ibid.*, 252.

¹⁶ Papers of Continental Congress.

population of Vermont to be then about 30,000 and that the number of militia was about 7,000.

Speaking of the negotiations with the committee of Congress, Allen says:¹⁷ "The eastern boundary line (Connecticut river) proposed by the committee of Congress was not disputed, but the western boundary affected a tedious dispute. Mr. James Duane and Colonel Allen managed the controversy, both being greatly interested in the lands liable to be affected by the boundary line.—At length, Colonel Allen drew an abstruse line that would answer Vermont; gave it to the late Roger Sherman Esq., a member of Congress just as Congress were impatient to adjourn, praying him to redraft it and propose it as his own, which he complied with and laid it before Congress which was moved and passed into a resolution and Congress adjourned."

As before stated Congress required a dissolution of the union with the New York and New Hampshire towns before recognizing the independence of Vermont to which Allen and Fay would not agree. Possibly a dissolution of the union would have insured the admission of Vermont, but nevertheless, the union had been the club that forced Congress, New York and New Hampshire to seriously consider the independence of the Grants; and a continuance of the union might in the near future have forced reluctant acquiescence.

The attitude of New York was not that of passive submission to the maneuvers of Congress; and its legislature in November, 1781 passed a lengthy resolution protesting the Congressional Act of August 21st and denying the authority of Congress to proceed thereunder and dismember any of the thirteen states without their universal consent.¹⁸

Ira Allen, Jonas Fay, Abel Curtis and Elisha Payne were appointed by the Vermont Council in January 1782 agents and Allen, Fay and Curtis spent some time in Philadelphia negotiating with Congress but without avail. November 14, 1781, Governor Chittenden wrote a long letter to Washington, explaining all that Vermont had done for its security, which brought a reply in January 1782, wherein Washington expressed the opinion: "I will take it for granted that their (Vermont's) was good because Congress by their resolves of the 7th of August imply

¹⁷ Allen, *Hist. of Vermont*, 182.

¹⁸ *Clinton Papers*, VII, 516 to 519.

it, and by that of the 21st are willing to confirm it, provided the new state is confirmed to certain prescribed bounds." He further advised, "You have nothing to do but withdraw your jurisdiction to your old limits and obtain acknowledgment of independence and sovereignty under the resolves of the 21st of August."

Influenced by this letter, the Vermont Assembly voted February 23, 1782 to dissolve the union and relinquish the New York and New Hampshire territories which had been annexed. Isaac Tichenor, Moses Robinson, Paul Spooner and Jonas Fay were elected delegates to Congress, but they were not received and Vermont was not admitted as a state.

Vermont had acted unwisely in dissolving the union and had gained nothing. She had surrendered her bargaining power, which was the threat to dismember New Hampshire and New York. Ira Allen when he returned from Philadelphia and learned of the Assembly's action was much chagrined, and afterwards said: "By dissolving the union, Vermont had weakened her strength, lessened her consequences and exposed herself to the sport of state politics."¹⁹

The intrigue of the Vermont leaders with General Haldimand is long, tortuous and compromising and can not be fully detailed in this brief review. On October 31, 1780, Governor Chittenden laid before the Vermont Assembly a letter from General Haldimand and one from General Carleton regarding an exchange of prisoners. These letters were in response to an inquiry made by Chittenden. To promote this exchange, Haldimand deputed Justus Sherwood, a loyalist, former resident of Vermont and friend of Ethan Allen. Sherwood met Ethan Allen and a council of his officers at Castleton to arrange a cartel for the exchange of prisoners; but he also, in a private interview informed Allen of Haldimand's proposals and suggested that this was a proper time for Vermont to cast off the Congress yoke and resume its former allegiance to the king. Allen's attitude seems to have been a rejection of all personal inducements, but a serious consideration of the proposals insofar as they concerned the welfare of Vermont. A truce was arranged between Vermont and the British; and Sherwood and Allen

¹⁹ Allen, *Hist. of Vt.* 214.

pledged themselves to the strictest secrecy regarding their private conversation.²⁰

May 7, 1781, Ira Allen with credentials from Vermont went to Isle aux Nois and entered into an agreement for settling a cartel with Major Dundas and Captain Sherwood, the British commissioners. Of their talks, Allen wrote an evasive letter to Haldimand; but Sherwood in his report to the general was more explicit and said: "Matters are not yet ripe, Governor Chittenden, General Allen and the major part of the leading men are anxious to bring about a neutrality—but they dare not at this time make any separate agreement with Great Britain, until the populace are better modelled for the purpose."²¹

The correspondence indicates the British suspected Allen was playing a double part and suggests, "That Vermont sent him here to frighten Congress into compliance with her demands and to negotiate away the proper season for a campaign." It also indicates Allen was very circumspect and signed nothing which might compromise himself. As reported by Sherwood, Allen in his private conversations expressed a desire for reunion with the crown, but would offer no definite proposal because of his lack of authority.

As it was impossible to carry out the terms of the cartel, because Vermont had no prisoners to exchange, Haldimand wrote Chittenden a letter of disappointment, but expressed a willingness at any time to continue the negotiations.

After his return, on July 10, 1781, Ira Allen wrote Haldimand stating the situation in Vermont and intimating time was necessary and "that a considerable part of Vermont's citizens would expect to remain a reasonable time in a state of neutrality." This letter was shown to Chittenden and other trusted leaders, who signed a certificate, for the protection of Allen, reciting "that while the letter purported an intention of the state's becoming a British province, it was a political proceeding to prevent the British forces from invading the state.

Copy of a blundering letter, written by the British minister, Lord George Germain, intercepted by a French warship and turned over to Franklin was read in Congress, July 31, 1781.

²⁰ Report of Sherwood, *Canadian Archs.*, B. 176, 14-15.

²¹ *Canadian Archs.*, B. 176, page 73.

Note: It may be observed that the cartel for exchange of prisoners was a subterfuge to carry on the negotiations for an alliance.

Germain assumed that the people of Vermont had already returned to their allegiance to the king; and the reading of it caused a sensation and must have benumbed Congress with fear.

Jonas Fay had been appointed Vermont's commissioner to the British and he carried on indefinite negotiations with the British commissioners, during August 1781. He wrote a letter to Haldimand wherein he pleaded as an excuse for his failure to arrange a reunion, his lack of authority.²²

In September, Allen and Fay were negotiating with the British commissioners of which Allen later wrote: "The British commissioners insisted that Vermont should declare itself a British colony — that something official must be determined on before they parted or the armistice must cease — They then suggested an instruction which they said they were not at liberty to deviate from without putting an end to the armistice, which was that his Excellency, General Haldimand should in his proclamation offering to confirm Vermont as a colony under the crown say "that an army should come up the lake in October with said proclamation, during the session of the Legislature, distribute them, when the Legislature must accept the same, and with the British take measures for their common defense."

"Their proposition confounded the Vermont agents, who argued the season was too late for such military operations, but if they insisted on doing so, they hoped the general would defer distribution of the proclamation until he learned the disposition of the people. On these principles, they consented to have the proclamation brought up the lake rather than break the armistice."²³

Haldimand's proclamation addressed to the inhabitants of Vermont declared: "That upon their actually and effectually reuniting themselves as a government under the crown of Great Britain, they should be considered by the same as a separate province independent of and unconnected with every government in America; and will be entitled to and shall enjoy every prerogative and immunity — comprehending charter rights as formerly enjoyed by the province of Connecticut, the right of appointing a governor excepted, which must rest in the crown." It also promised to confirm, until further pleasure of the king,

²² *Vermont Historical Society Papers.*

²³ Allen, *Hist. of Vermont*, page 189.

their land grants from New Hampshire and the other territory the region from the Hudson river east to the Mason line.

The proclamation granted practically all Vermont's contentions and appears to have incorporated therein the subjects discussed with and agreed upon by Allen and Fay with Sherwood and the other British commissioners. It was written, signed and delivered to Sherwood who in acknowledging its receipt said: "and shall forward the proclamation as soon as Allen's messenger arrives." This seems to indicate the time of its issue was left to the determination of Ira Allen.

In the meantime, the invasion had begun and the British troops under St. Leger, about October 20th occupied Crown Point and Ticonderoga; but on November 6th, learning of Cornwallis' surrender, St. Leger withdrew to St. Johns.

Allen, who was attending the sessions of the Vermont Legislature at Charlestown, realizing he could no longer delay the impatient British agents; wrote Sherwood under date of October 20th: "It is with regret, I am necessitated to request that you do not send the proposed proclamation at this time, as the before recited Southern accounts seem to forbid it for the present; yet time will come when they will answer the design intended."

The impatience of Sherwood and the other British agents was relieved upon receipt of this letter. October 19th, Cornwallis surrendered and this practically ended, Haldimand's Vermont adventure.

The year 1781 was a critical period for both British and Americans. The Americans were depressed by war weariness, doubts of success, prospective traitors, want of money, lack of government and a general debility of spirits. The British were discouraged by division and jealousy among their generals, lack of coordination between the northern and southern armies and general hopelessness of the outcome.

While Cornwallis with his southern army floundered toward certain destruction, Sir Henry Clinton at New York and General Haldimand at Quebec remained militarily inactive and peaceably engaged in the seduction of American traitors. This dismal outlook was, however, the distressing calm before the storm, a somber stalemate of effort broken near the close of the year by exalted American success and crushing British defeat.

In Congress, the Vermont affair had become a tiresome nuisance. So long as New York objected, Congress could not

admit Vermont to the Confederation, because it had no legal power to dismember the state of New York. The Vermont negotiations with the British scared Congress into a policy of inaction, and as long as they continued it dared not act favorably to New York. It may be presumed that the secret opinions of the majority of the members favored the admission of Vermont as the only practicable and profitable solution of the dispute; but these opinions were warped by the conflicting interests of the different states. Pennsylvania which had a controversy with Connecticut over the Wyoming Valley favored New York as did Virginia and North Carolina with similar disputes over Kentucky and Tennessee. Washington was in favor of the admission of Vermont, because it would increase his military strength and solidify the union of the confederated states.

In New York sentiment was divided, as evidenced by the action of its senate. Schuyler and the majority of the loyal Whigs desired relinquishment of all claims to Vermont; but the governor, George Clinton and the land jobbers allied with him said no; and Clinton's vigorous and resourceful leadership made him the dominant power in the state.

Vermont itself was a puzzle. The Tories were for a British alliance, the "Yorkers" as always would submit to nothing but New York jurisdiction; while the majority of New Hampshire grantees, the humble farmers always devoted to American independence and the state of Vermont rejected the thought of a British alliance with horror. With the exception of Chittenden, the Allens, Fays and a few others, the leading men of Vermont appear to have had little fixed principle, their sentiments veering with every wind that blew. It is the real attitude of Chittenden and his adherents that puzzles. They were inflexible in their determination to achieve independence, and it is indubitable they desired their independence under and as a part of the Confederation; but if pushed too hard and Congress attempted to divide their territory and impose upon them New York jurisdiction, they might as a last resort seek a British alliance.

Ira Allen presumably the creator and chief engineer of their designs was a shrewd negotiator and knew when to blow hot and cold. By his British intrigues, he obtained a temporary armistice, which relieved Vermont from British and Indian intrusion, and scared Congress into inaction. Thereafter, his policy was to prolong the negotiations and thereby continue the armistice

and gain time for something to turn up; but in its pursuit he was confronted with various difficulties. He was compelled to conceal the nature of his proceedings from the people of Vermont who were averse to any British accomodation; and it was necessary to avoid a too radical step which might arouse the antagonism of Congress and alienate the sympathies of the American people. He was subject to suspicion and danger. Vermont's adversaries in the neighboring states considered his negotiations a mere design to force independence and while Congress suspicioned likewise, it was unwilling to do anything which might precipitate a crisis.

Haldimand and his agents doubted Allen's sincerity and suspected his conduct a subterfuge to continue the armistice and intimidate Congress. To allay this suspicion, Allen went very far and in his private conversations with Sherwood expressed sentiments and advanced propositions inimical to American independence. Yet he skillfully avoided committing them to writing or sanctioning them with his signature. The opposition of the people of Vermont to any British alliance, he successfully employed as an excuse for delay; and by persistent avowal of his sincerity and persuasive explanations, he almost convinced the British of his integrity. His equivocal conduct has convinced many of his traitorous intent; and others that his representations to the British were faithless and deceptive. Perhaps a juster estimate of him is, that he was a master of diplomatic deception.

Much may be said in defense of Ira Allen and his idol, the state of Vermont. By her audacity and valor, the capture of Ticonderoga and the Battle of Bennington had been won for the United States; and yet these achievements had been spurned by Congress and as a state Vermont was no part of the Confederation and owed it no allegiance except through the sovereignty of New York or New Hampshire which was denied. The actual status of Vermont was that of a territory with a *de facto* government independent of both Great Britain and the United States; and consequently the acts of her accredited agents can in no event be considered traitorous to the Confederation, which had denied her recognition and to which she owed no allegiance. She had formerly declared her independence of Great Britain apart from the thirteen states and was as they were a *de facto* sovereignty adrift in the chaos of revolution. Unacknowledged as one of the thirteen and unconquered she was an independent

republic and remained so until admitted in 1791 as the fourteenth member of the United States.

The situation in 1781 was complicated by the uncertainty of American success. If the British were victorious, the thirteen states returned to their pre-revolutionary status as colonies of Great Britain, with the territory of the New Hampshire Grants disputed between New York and New Hampshire; but if Vermont as a result of Allen's negotiations accepted the British alliance it would be a separate English province with special rights and privileges, and its land titles confirmed. This was the British bait.

But if Vermont made the British alliance and the Americans won, Vermont would be extinguished as a state and her leaders financially ruined and legally proscribed. This was the American hook.

To swim this deep sea and gently nibble without being caught exercised all the nimble wit of Ira Allen, and he succeeded in remaining unhooked by a timely guess that Cornwallis would surrender and therefore withheld the issue of the Haldimand proclamation. By a secret and satisfactory explanation to the British commissioners he kept the way open for further negotiations whenever they might be necessary to intimidate Congress.

In December, 1781, a civil war was threatened between New York and Vermont to which only the following brief reference will be made. There were bitter controversies between the New York and Vermont adherents in the annexed territory east of the Hudson river, and Colonel John Van Rensselaer with others was seized and taken to Bennington, where they were well treated and promptly released.²⁴ General Gansevoort then ordered a regiment of New York militia to the scene. Meanwhile, a Vermont force of five hundred under Colonel Walbridge went to the support of the Vermont adherents. General Stark the American commander at Saratoga refused to support New York and Gansevoort unable to rally but a few militiamen, ingloriously retreated and the commotion ended with Vermont in control of the situation.²⁵ This bloodless episode is unimportant except as an illustration of the general apathy of New York people to oppose Vermont, and the vigor and resolution of the latter.

²⁴ *Clinton Papers*, VII, 553.

²⁵ *Ibid.*, 615.

The British government and Lord George Germain, unable to realize that Cornwallis' surrender practically ended the war, instructed Generals Clinton and Haldimand to continue their efforts and spare no expense for the acquirement of Vermont. Sherwood who appears to have had unlimited confidence in Ira Allen wrote him a tempting letter which brought a cautious response of implied assurance and sincerity. But Ethan Allen went much farther and in a letter, to Haldimand written in July 1782, declared: "I shall do everything in my power to render this state a British province." This letter may have served to prolong the stalemate in Congress, which through friendship or fear remained unresolved.

The treaty of peace, with Great Britain signed in 1783, definitely incorporated the territory of Vermont within the limits of the United States and ended all further negotiations of Vermont with the British.

CHAPTER VI

VERMONT A STATE

The Allens continued their flirtations with the British, Ethan by blundering indiscretions and Ira by careful moves under the guise of trade promotion. Their most valuable properties lay in the northern part of the state and along Lake Champlain they owned thousands of acres of the best land, and every political threat either by Congress or New York excited great apprehension of danger to their possessions. With their other accomplishments, it must not be forgotten that all the members of this remarkable family were astute business promoters, engaged in storekeeping or other speculations in which they were variously successful. Ira, the youngest was the ablest, one of the shrewdest Yankee dealers of his time and foresighted in his vision of the future. It was he, who selected the region of Lake Champlain for their most extensive ventures. Time has vindicated his judgment as the central and northern part of the state early developed quarries, industry and commerce, while the southern portion, although first settled, remained agricultural and merely a district of home industry and small towns.

The natural commercial outlet of southern Vermont was down the Connecticut Valley into Massachusetts or by the way of the Hudson to New York which difficult transportation ways fostered neither industry nor commerce. As formerly remarked, Ira Allen perceived that Lake Champlain and its outlet afforded cheap and easy transportation for northern Vermont products to the St. Lawrence river and the sea; and therefore directed his investments and activities to that region. Burlington Bay and the outlet of the Onion or Winooski river was the place chosen, and there has grown the most populous and chief commercial city of the state. Allen promoted the growth of Burlington, cultivated a large farm, conducted a general store and utilized the abundant water power of the Winooski river to drive the sawmills and iron furnaces, he established there. To

obtain a market for the output of his farm, mills and furnaces, he sought the assistance of leading Canadian and English merchants, of Lord Dorchester, Governor General of Canada, and sent his brother, Levi Allen, then a merchant at St. Johns to London to secure a British government contract for ship masts. The rafts he floated down Lake Champlain carried wheat, pork and beef, butter cheese and flour, potash, iron, ship lumber and masts; and that ultimately his enterprises failed was due neither to lack of activity nor genius, but rather that he dreamed and endeavored too early and too far.

This natural business intimacy with the English, together with past equivocal conduct and Ethan's indiscretions caused suspicion in the United States that Vermont still sought a British alliance, and to an extent may have deterred Congressional action. Be that as it may, Governor Clinton with vigorous animosity and James Duane with sixty thousand acres of New York granted Vermont lands still conspired and induced New York to demand, that Congress settle the dispute with the threat to withdraw from the Confederation and wage civil war against Vermont. Governor Chittenden sent Congress a stern letter asserting the determination of Vermont to defend itself to the last extremity. A committee, to whom had been referred New York's demand and Chittenden's reply, reported in favor of recognizing the independence of Vermont, but the report was negatived June 4, 1784. This was Congress' last consideration of the Vermont business, and henceforth it had all it could do to keep itself alive without gasping over Vermont.

Vermont's situation was not critical and neither was it enviable. Its weakness was that the treaty of 1783 incorporated it within the territorial limits of the United States, and Congress whenever it chose and felt able could extinguish its independence; and although for eight years after Vermont, undisturbed, continued its existence as a de facto independent republic, this threat hung over it like an ominous cloud. This anomalous situation of being physically and legally a part of the United States but not politically could only be solved by her admission as the fourteenth commonwealth or by subjection to the jurisdiction of New York which Vermont would have resisted with all her treasure and blood. Civil war is an intolerable calamity, and although incomprehensible now that any other solution but her admission could at that time have been entertained, in the

distracted condition of the entire country, it did not seem so feasible then.

Surrounded by states oppressed with debt and overwhelmed by chaos following the protracted war, Vermont was free of debt and administered by a well organized government, or as Allen says:¹

"Union with the other thirteen states was not desirable at this time. Vermont was happy in being free from the load of debt which lay upon the United States; and was not called upon by Congress as were the other States to raise money. Vermont did not have the credit to contract any large debt and the people felt they were in a better condition than they would be if connected with the Union, at least until the United States shall establish a more permanent constitution, liquidate and provide ways and means for the discharge of their debts. This policy being adopted by certain persons in Vermont was steadily pursued by them."

During the existence of the republic, much progress was made and the government functioned without serious opposition. Year after year, the people elected Thomas Chittenden governor and Ira Allen was continued as treasurer and surveyor general. A law was passed authorizing Reuben Harmon to coin eight thousand pounds of money, but it appears that none of this coinage was put in circulation. Outside sentiment in favor of Vermont grew and it is noteworthy that Alexander Hamilton, in 1789, introduced a bill in the New York Assembly to ratify and confirm the independence of Vermont. The attitude of Ethan Allen and Governor Chittenden in refusing to harbor refugees of Shay's rebellion increased the respect of the better people for the Vermont leaders, especially in Massachusetts. Vermont secured the advantages of a free trade with Canada through Lake Champlain by proclamation of Lord Dorchester; and a committee of the Canadian Parliament recommended that Vermont products should be shipped to England without paying the Quebec export duty.

These internal and external advantages possessed by Vermont attracted settlers from the other New England states and greatly augmented the population, which is estimated to have increased during the republic's existence to between forty thousand and seventy thousand people. These newcomers introduced

¹ Allen, *History of Vermont*, page 24.

a new political element out of touch and sentiment with the Allens, Fays, and Chittenden, and the latter was defeated for governor in 1789 and Moses Robinson was chosen for one year, but Chittenden recovered his popularity and at the succeeding election was chosen by a large majority and continued as governor for many years thereafter.

The constitution of the United States was adopted and the new government went into operation under the leadership of Washington and Hamilton and under the control of the Federalist party with confidence, law and order restored. New York opposition to Vermont which had been luke-warm for years subsided and overtures for peace ensued. The Federalists and the north needed another state to counterbalance the increasing power of the south, which the admission of Vermont would give them. Governor Clinton had lost some of his power and zeal, and James Duane the moving spirit of the landjobbers was pocketed in a Federal judgeship and removed from the arena of active politics.

The New York Assembly, February 27, 1789, approved the petition of John Jay and others to relinquish all New York claims to Vermont;² but it was rejected by the Senate. The movement was renewed and July 6, 1790, the New York legislature passed a law appointing commissioners to settle the boundary line between that state and Vermont. Vermont reciprocated and appointed seven commissioners; and the commissioners of both states held their first meeting in New York. The Vermont commissioners refused further negotiations because the New York commissioners possessed inadequate power in that they had no authority to release all claims to New York land grants in the Vermont territory. John Jay and other leading New York men, who were granted large tracts of land by Vermont for their assistance, maneuvered the New York legislature and the commissioners in favor of the Vermont demands; and acting under a New York law passed March 6, 1790 giving them full power, the New York commissioners on October 7, 1790 made a full settlement whereby they ceded:

"To the state of Vermont all the lands together with the Islands in Lake Champlain lying to the Eastward of the following bounds to wit; Beginning at the Northwest corner of the State of Massachusetts thence westward along the south boun-

² *Journal of New York Assembly.*

dary of the township of Pownall to the southwest corner thereof, thence northerly along the western boundaries of the townships of Pownall, Bennington, Shaftsbury, Arlington, Sandgate, Rupert, Pawlet, Wells and Poultney as the said townships are now held or possessed to the river commonly called Poultney river thence down the same through the middle of the deepest Channel of East Bay and the waters thereof to where the same communicate with Lake Champlain thence through the middle of the deepest channel of Lake Champlain to the Eastward of the Islands called the Four Brothers and the westward of the Islands called Grand Isle and Long Isle or the two Heroes and to the westward of the Isle La Motte to the forty-fifth degree of North Latitude in the consideration of Vermont paying to the State of New York Thirty thousand dollars within a time limited, which sum of Thirty Thousand dollars it is a matter of notoriety bears no proportion to the value of private property so ceded.”³

Vermont had at last won the long contest and by an unusually favorable settlement. It was formally admitted March 4, 1791 as the Fourteenth Commonwealth of the United States. Views may diverge as to how and by whom it was accomplished, but perhaps the better view is to endorse the opinion of the man best qualified to judge, Thomas Chittenden who when rebuked for defending Allen retorted: “Why shouldn’t I? There would have been no state of Vermont but for Ira Allen.”

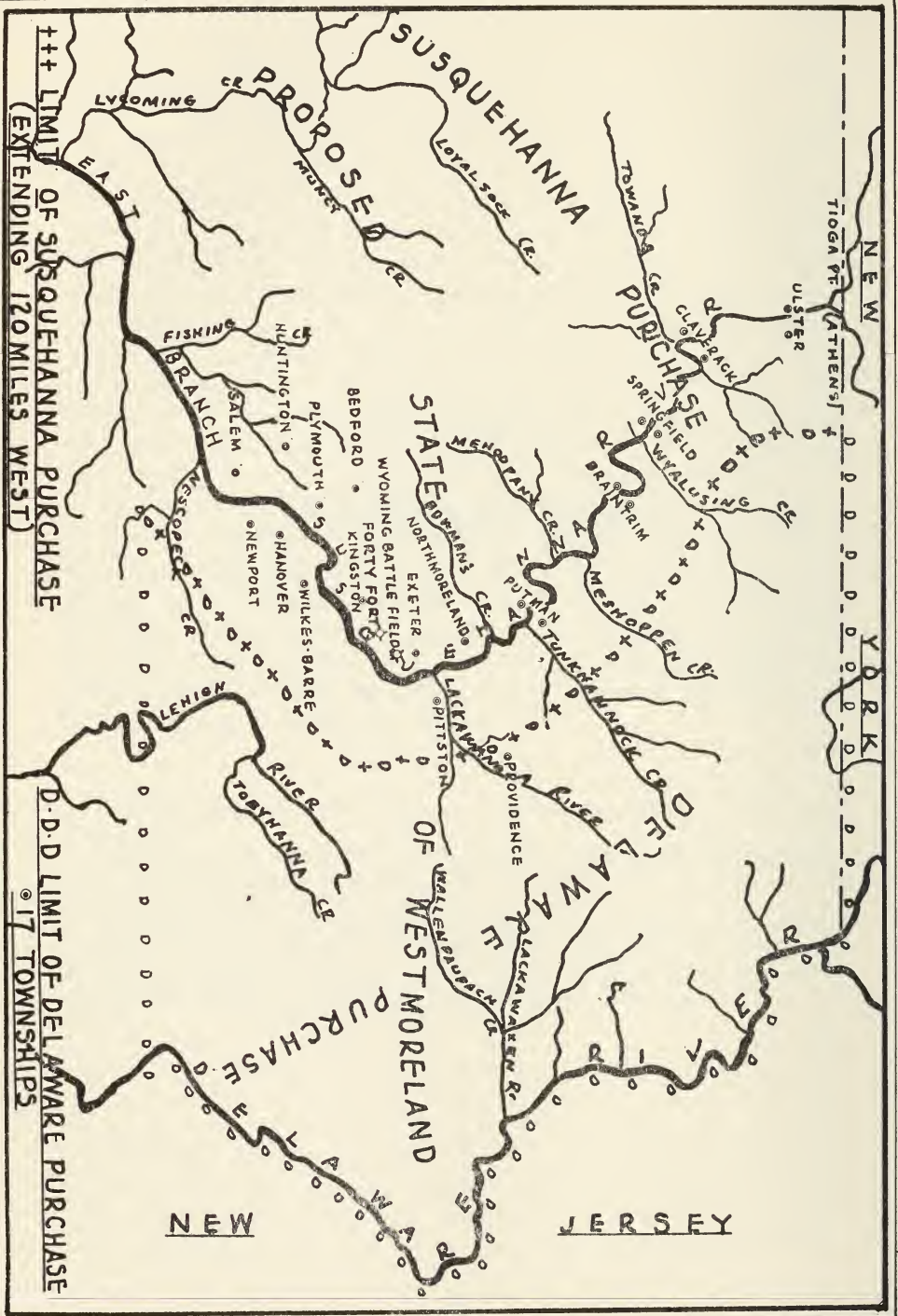
³ From the petition filed and contained in *Documentary History of New York*, IV, page 1023.

According to the *Documentary History of New York*, Volume IV, page 1024, the heirs of James Duane received only \$2,621.29 of the \$30,000 paid by Vermont when distributed by New York in 1799.

Ibid., page 1017: The inhabitants of Cumberland county, who held under New York grants and adhered to that state were reimbursed for the losses they suffered at the hands of the Vermont authorities by liberal grants of lands in what is now the town of Bainbridge, Chenango County, New York.

Section II

WESTMORELAND



++ LIMIT OF SUSQUEHANNA PURCHASE
(EXTENDING 120 MILES WEST)

D-D-D LIMIT OF DELAWARE PURCHASE
@ 17 TOWNSHIPS

CHAPTER I

THE CONNECTICUT CLAIM

The romantic designs of Raleigh had perished on the Carolina coast and the visionary schemes of Gilbert had vanished in the sea. England must occupy and colonize that part of North America she claimed by the prior discoveries of John and Sebastian Cabot. The Virgin Queen was dead and James Stuart was king of England. Ambitious men lustful of power and land pressed him and yielding to them and the necessities of the times, he, in 1606, patented two great chartered companies.¹ To one, the Virginia Company he granted the southern territory, and to the other, the Plymouth Company he gave that part of North America between the 41st and 45th degrees of latitude and running from "sea to sea". The Virginia Company more completely organized and better managed founded Jamestown in 1607. The Plymouth Company languished and had almost expired, when the king revived it under the name of the Council of New England.²

By transfers and some doubtful conveyances, a part of the Plymouth Company territory became incorporated in the grant to Lord Say and Sele, who founded Saybrook on Long Island Sound; and by the sale of this insignificant colony, the claim from sea to sea, known as the "Old Patent" was transmitted to Connecticut.³

Distrusting the validity of the "Old Patent" and anticipating the⁴ desires of his people, Governor Winthrop of Connecticut betook himself to the Court of Charles II. Though a Puritan, the great ability and high character of the younger Winthrop, won him the friendship of the leaders of the Restoration. None could withstand his charming manners, neither king nor chancel-

¹ Hutchinson, *History of Massachusetts*, Vol. I, page 2.

² *Ibid.*, page 5.

³ *Ibid.*, page 64 and note.

⁴ *Ibid.*, page 100 and note.

lor, and April 20, 1662, the new charter of Connecticut, practically as drawn by Winthrop received the royal assent. It granted to Connecticut almost unlimited powers of self government and a territory bounded on the north by Massachusetts, nearly coincident with the 42nd degree of latitude, on the south by the sea, approximately the 41st degree and extending from Narragansett Bay to the Pacific Ocean.⁵

In 1681, the same king granted to William Penn the territory included between the 41st and 43rd degree of latitude, overlapping the prior grant to Connecticut and a large part of the present western New York.⁶ The seeds of dissension sown by these conflicting grants bore an ample fruit of woe in the tragic annals of the lost state of Westmoreland, hereafter traced through the many sad pages of its history.

By 1750, the pressure of population was felt in Connecticut and it became necessary to provide unsettled western lands for a new generation.

Preceded by much discussion and many petitions to the Connecticut Assembly to occupy the unsettled territory comprehended within the charter⁷ of 1662, an organization was formed in 1753 at Colchester in that colony for the purpose of occupation and settlement. This association⁸ was merged in another body formed the same year in the nearby town of Windham, and known as the Susquehanna Company. Both were unincorporated associations of the neighboring farmers formed for mutual advantage. Their purpose was the purchase from the Indians of the Wyoming Valley, it being within the Connecticut claim; the occupation of the land there and its allotment among themselves.

The beautiful Wyoming Valley, so celebrated in story and song, underlaid by many veins of anthracite coal was the richest part of the colonies. For twenty miles, the Susquehanna river meanders through lowlands of fertile soil; and the valley encompassed by high mountains is sheltered from cold northern winds and southern hurricanes.

In 1753, Stephen Gardner of Colchester, as agent of the Susquehanna Company visited the valley and the report of his explorations largely augmented the enlistment of new members.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Susquehanna Company Papers*, Vol. I, pages 1 to 28.

⁸ *Ibid.*, pages 28 to 39.

Timothy Woodbridge, superintendent of Indian affairs at the Stockbridge, Massachusetts Mission School was engaged by the Susquehanna Company to undertake the purchase from the Six Nations of a large territory within the limits of the Connecticut claim and including the Wyoming Valley.^{9, 10}

These Iroquois Indians then held all the lands along the Susquehanna and its tributaries by right of conquest, having conquered about 1675, the Susquehannock Indians, the more ancient occupants. Thereafter, in consequence of this conquest, the various tribes inhabiting the Susquehanna Valley were only temporary residents by sufferance of the Six Nations.

The Penn heirs, proprietaries of Pennsylvania, as well as Deacon Woodbridge, appeared at the Albany Congress and endeavored to make a purchase of Indian lands; and early in the sessions brought their project to the attention of Congress and make it a part of the proceedings, but the delegates, wisely, and acting under the explicit instructions of the crown officials, voted to have nothing to do with any attempted purchases of Indian lands. Thereafter all negotiations by both the Penn heirs and the Susquehanna Company with the chiefs of the Six Nations were conducted more or less secretly.¹¹

The Rev. Richard Peters and Conrad Weiser, the active agents of the Penns went about their business at their lodgings, the Stevenson house in Albany; and there secured a grant from twenty three chiefs of all the land north of the Kittatiny mountains to the mouth of Penn's creek and westerly from the Susquehanna river to the limits of the province. But, the Indians understood this grant not to include the West Branch and any of its tributaries. To accomplish this Weiser found it necessary to bribe an Oneida chief, or in Peters' mild terms of clerical cunning, "to engage him by a reward".¹² In 1736, the Penns had obtained the agreement of certain chiefs to sell no lands within the province except to the Proprietors of Pennsylvania. This is known as the "Deed of Preemption," and in order to forestall

⁹ *Susquehanna Company Papers*, Vol. I, pages 41 to 63 and notes; *Penna. Colonial Records*, Vol. 5, pages 735, 136, 737, 758, 767, 768, 771, 773, 784, 785; *Susquehanna Company Papers*, Vol. I, pages 63 to 78, 86 to 90; *Penna. Archives*, Vol. II, pages 20 to 123, 125, 126.

¹⁰ *Susquehanna Company Papers*, Vol. I, pages 43 to 50, 79 to 81.

¹¹ *Pa. Col. Records*, VI, pages 111 to 114.

¹² *Ibid.*, 114 to 122.

the Connecticut purchase, Peters and Weiser exhibited it and secured an endorsement thereon signed by eight chiefs.¹³

Like the Rev. Mr. Peters, Deacon Woodbridge pursued his agency in a business and not a religious way, enlisting the services of Colonel Ephraim Williams, Joseph Kellogg, the great interpreter and Colonel John H. Lydius, all adepts in Indian bamboozlement. The Pennsylvania records followed by many historical writers have disparaged Lydius.¹⁴ As a matter of fact, he was a man of considerable consequence in the province of New York, and at the time the leading Indian trader at Albany. For a time, he and William Johnson closely collaborated in the management of Indian affairs; and Johnson upon his retirement as Indian superintendent recommended him as his successor, but in 1754, they were no longer friends. Lydius' connection with the Susquehanna business may have caused much of Johnson's opposition to the purchase. Be that as it may, the two most influential New York men among the Iroquois in 1754 were William Johnson and John H. Lydius.

Like Conrad Weiser, Lydius probably bribed one or two chiefs and kept the Indians drunk as long as he could, that being the usual way of conducting business with them. He was very friendly with King Hendrik and, perhaps, incited that chief's opposition to the Penn purchase. He carried on his negotiations with them at his old brick mansion, corner of Pearl and State Streets, just as Weiser, Penn and Peters had done at their lodgings.

The Susquehanna Purchase deed, the original of which is in the custody of the Historical Society of Pennsylvania, is dated July 11, 1754 and it recites a consideration of 2000 pounds current New York money, and that there were 534 whole share grantees, who each took two twelve hundred twenty fourth parts, and 136 half share grantees who each took one twelve hundred twenty fourth parts. Each took as tenants in common of the territory conveyed which is described as follows:

"Beginning from the one and fortieth Degree of North Latitude at Ten miles distance East of Susquehanna River; and from thence with a Northward line Ten Miles East of the River to the forty second or beginning of the forty Third degree of North Latitude and so to extend west Two Degrees of Longitude one

¹³ *Ibid.*, 124 to 128.

¹⁴ *Biography of Lydius.*

hundred Twenty miles and from thence South to the Beginning of the forty second Degree and from thence East to the aforementioned bounds which is ten miles East of Susquehanna River.”¹⁵

This territory comprises the present Pennsylvania counties: the larger part of Bradford, Wyoming, Lackawanna, Luzerne, Columbia, Montour, Clearfield, Elk and McKean; smaller portions of Susquehanna, Northumberland, Union, and Center; and all of Sullivan, Lycoming, Tioga, Potter and Cameron.

As the Susquehanna Purchase has been belittled by many writers, recourse should be made to the affidavits of the witnesses to the deed.¹⁶ The distinguished and respected Stephen Hopkins of Rhode Island, who was present at both the Penn and Susquehanna purchases averred in a subsequent affidavit: “That both these bargains with the Indians for several parts of their lands were conducted and finished in as open and fair a manner as it is possible for any bargains with the Indians to be carried out and completed.”¹⁷ This is probably as dispassionate and correct an opinion as may be formed.

The Susquehanna Purchase was made with the approval of Roger Wolcott, governor of Connecticut;¹⁸ and the grantees in the deed were substantial Connecticut, Rhode Island, New York and Pennsylvania farmers and a considerable number of the most prominent men of Connecticut.¹⁹ The deed was signed by two Seneca, seven Mohawk, two Onondaga, six Oneida and one Cayuga chiefs and sachems, a fair representation of the governing power of the Iroquois Confederacy.²⁰

Accompanied by a surveyor, named Young, Stephen Gardner made another exploration of the Susquehanna Valley from Tioga Point southward to Nescopeck, carefully noting in his diary, the

¹⁵ Copy of deed in *Penna. Archs.*, Vol. II, page 147.

¹⁶ *Pa. Col. Recs.*, VI, pages 248, 249, 267; *Pa. Archs.*, II, pages 170, 174 to 176, 323. Affidavits of John H. Lydius, James Sharp, Sybrant Van Schaick, Jr.

¹⁷ Affidavit found among the *Trumbull Papers* and copied in Harvey's *History of Wilkes-Barre*, Vol. I, page 2911.

¹⁸ *Susquehanna Papers*, Vol. I, page 50.

¹⁹ See deed which lists: Gen Phineas Lyman in active command in Battle of Lake George; Daniel Edwards, judge of Connecticut Superior Court; George Wylls, secretary of Colony of Connecticut; William Williams, signer of Declaration of Independence; Ezra Stiles, president of Yale College; Oliver Wolcott, son of Roger Wolcott, and later Secretary of United States Treasury; and many others.

²⁰ See deed and for their rank Harvey's *History of Wilkes-Barre* upon information furnished by Dr. Beauchamp, the great authority on New York Indians.

quality and lay of the land and the latitude and longitude of the various places²¹

On December 20, 1754, five Delaware chiefs made a deed, of a large tract of land on the east side of the Delaware river and within the province of New York, to a large number of Connecticut people.²² Another association, known as the First Delaware Company had been organized at Norwich, Connecticut, and this company, in the spring of 1755, sent its agents, John Curtis, Asa Peabody, and Joseph Skinner to the Delaware Valley, where they negotiated a purchase from the Ninnecpauues, a Delaware Indian clan, the actual occupants of the land. A deed was signed May 6, 1755 by twelve chiefs, who delivered possession of the land conveyed by the ancient English custom of livery of seizen. This deed granted, to three hundred sixty two individuals as tenants in common, all the territory between the Delaware river and the eastern line of the Susquehanna Purchase and extending north from the Lackawaxen river to the New York line.²³

On October 27, 1755, four of the chiefs who signed the former deed conveyed, to two hundred forty one grantees, including many named in the prior deed, who were associated together under the name of the Second Delaware Company, all the territory south of the Lackawaxen river and not before sold. In this deed it was evidently intended to include all the territory south to the 41st degree of latitude, the southern limit of the Connecticut charter.²⁴ By these two purchases, the Indians purported to convey, besides the land in New York, all the territory comprised in the present Pennsylvania counties, all of Wayne and Pike, parts of Monroe, Lackawanna and Susquehanna, and of Bradford, all of Warren, and parts of Windham, Orwell and Pike townships.

The Susquehanna Purchase and the Delaware Purchase comprised all the territory intended to be included in the contemplated state of Westmoreland.

²¹ *Susquehanna Company Papers*, Vol. I, page 285.

²² *Susquehanna Company Papers*, Vol. I, page 196.

²³ *Ibid.*, 260.

²⁴ *Ibid.*, 308.

CHAPTER II

SETTLEMENT AND YANKEE PENNAMITE WARS

The first settlement within the limits of the Connecticut claim was made, under the Delaware purchase in the region called Cushietunk, on the Delaware river in the present Damascus township, Wayne county, Pennsylvania by Joseph Skinner about September 4, 1755.¹ Others soon followed and later in the same year, Moses Thomas Sr. and Timothy Skinner built a sawmill and gristmill on Calkins creek, near the present village of Milanville where the first settlement was made. In 1760, when Pennsylvania first took notice of it, the settlements around Cushietunk consisted of three townships, each three miles along the Delaware, and in the middle township, a large town had been laid out and then included a sawmill, gristmill and over thirty dwellings occupied by over twenty men besides women and children.²

The Pennsylvania authorities did nothing except to incite Teedyuscung, the notorious Delaware chief then living at Wyoming, to threaten an Indian war.³ They also issued unexecuted warrants against the Cushietunk people as intruders and distributed the governor's proclamation and other paper fulminations against them.⁴ The Connecticut settlers, however, were supported by their Indian neighbors living on the Delaware. These Indians sent word to Teedyuscung, that if he intended to give any opposition to the Connecticut settlement as Cushietunk, they would join the Connecticut people and were resolved to settle them by force in spite of Teedyuscung and his Indians.⁵

¹ *History of Wayne County* by P. G. Goodrich; *Pennsylvania and New York Frontier*, page 155.

² *Susquehanna Company Papers II*, pages 26, 28, 29, 32, and 33; *Pa. Archives III*, 756, 757, 754, 755, 760; *Colonial Records VIII*, 563 to 567.

³ Teedyuscung later confessed.

⁴ *Susquehanna Company Papers II*, 44, 61, 71, 77, 79, 84, 95, 96, 114, 116; *Pa. Archives IV*, 45, 66, 51, 52; *Col. Recs. VIII*, 610, 601, 622, 625, 663, 664.

⁵ *Susquehanna Company Papers III*, 81, 94; *Col. Recs. VIII*, 612 to 614.

Notwithstanding, all these threats and paper pronouncements, the Connecticut settlers were undisturbed. Learning of the destruction of Wyoming in 1763, during the Pontiac War, the women and children at Cushietunk were placed in the fort, resistance was prepared and a valiant and successful defense was made. Several of the Indians were killed. Of the settlers Moses Thomas Sr. was killed and Hezekiah Willis wounded. The mills and some of the dwellings were burned and cattle were killed. Thereafter, Cushietunk continued to grow and prosper, and remained unmolested until the Revolution.⁶

The French and Indian War interrupted occupation of the territory included in the Susquehanna Purchase, until the summer of 1762, when a temporary settlement was made at Mill Creek north of the present Wilkes-Barre. The following year there was a more permanent plantation in the same vicinity. Captain Bull and his band of Delaware Indians, returning from a murderous raid in Northampton county, on October 15, 1763, attacked this settlement, massacred some twenty of the inhabitants and dispersed the remainder. Thereafter, in compliance with orders, of the British government, prohibiting further encroachments on Indian lands, no occupation was attempted until after the Fort Stanwix Treaty made November 5, 1768, which established a line running diagonally across Pennsylvania, and assured that all the territory east of this line should be thrown open for settlement. On the same day, a deed was made, by the Six Nations to Thomas and Richard Penn, granting them all lands in the province not theretofore conveyed.

As the Wyoming Valley lay east of the Fort Stanwix line, the Susquehanna Company determined at a meeting held at Hartford, on December 28, 1768 to occupy it by forty persons before February 1, 1769. Some of these forty men came from Windham and Lebanon and thereabouts, some from the vicinity of Hartford and others from New York and the number was completed by two from Pennsylvania. They crossed the Delaware river below the present Milford, traversed the desolate Pocono mountains and from the Moosic mountains gazed on the promised land, probably on the 6th of February, 1769. They had been promised as a reward for their occupation, the choice of five settling townships. Within their view was the whole Wyoming Valley and in the bend of the great river was the richest part, the fertile lowlands

⁶ Goodrich, *History of Wayne County*, page 122.

of Kingston Township, which they chose as their prize. They descended from the mountains and built some huts on the site of the present city of Pittston.

In the meantime, the Penn agents had not been idle, and Charles Stewart and William Scull, Pennsylvania surveyors laid out two great manors, called Stoke on the east side of the river, and Sunbury on the west side. Captain Amos Ogden had already established a trading post on the site of the former Yankee settlement at Mill Creek, and soon after the forty New England men arrived, he was joined by Sheriff Jennings of Northampton county in which jurisdiction the Wyoming Valley was then included by Pennsylvania. Jennings arrested the Yankees at Pittston on a charge of trespass and took them to Easton jail from which some of them escaped and the others were released upon giving bail.

In the spring, these forty men were joined by two hundred sixty more adventurers from Connecticut under Major John Durkee and a fortification was erected on the eastern bank of the river called Fort Durkee and the place was named Wilkes-Barre in honor of John Wilkes and Isaac Barre, two English politicians.

There were only verbal altercations between the Pennamites and Yankees until the invasion, in June, of Colonel Turbutt Francis and a Pennsylvania force of sixty men, who with flaring banners and beating drums approached Fort Durkee and demanded its surrender. Refused and dismayed by the overwhelming force within the fort, the irresolute Pennamites retreated with silent drums and trailing colors. This was the beginning of the First Yankee-Pennamite war, which proceeded with considerable bloodshed and much destruction of property.

During the summer, David Meade, a Susquehanna Company surveyor laid out the townships of Kingston, Wilkes-Barre, Hanover, Plymouth and Pittston. Considerable farming was undertaken and many improvements were made, but in November, Captain Ogden and Sheriff Jennings with a large force of Pennsylvanians captured Major Durkee and dispossessed and drove the Yankees from the valley.

In January, 1770, Captain Zebulon Butler, who had had considerable military experience in the French war, became leader of the Yankees; and he enlisted the services of Lazarus Stewart and the Paxtang Rangers. These men were granted Hanover

Township as compensation for their support. These dreaded rangers were outlawed by Pennsylvania and pages might be devoted to the fascinating story of Lazarus Stewart their leader, the most celebrated frontiersman of his time who had terrorized the Indians and made the peace loving Quakers shiver with fear. Branded as an outlaw by the government of Pennsylvania and with a price upon his head, because he and his men had barbarously murdered the Conestoga Indians in the Lancaster jail, he and his rangers for years rode triumphantly through the borderland, openly defying the civil authorities of Pennsylvania.

In February Stewart with his rangers drove the Pennamites from Wyoming; but Ogden who was an equally bold and skillful leader soon recovered possession of his trading house at Mill Creek, which he had strongly fortified. In April yielding to the Yankee siege of it, Ogden surrendered and quitted the valley. Following his evacuation, another fortification the celebrated Forty Fort was begun in Kingston township. Much of the land in the five townships was allotted and individual occupation of the farms commenced. Permanent possession of the Yankees seemed assured, but in the fall, Ogden with a large force surprised and overwhelmed them.

In January, 1771, Stewart again secured possession of Fort Durkee; but the Pennamites erected Fort Wyoming nearby. Either during an attack on Fort Durkee or during a parley as alleged by the Pennamites, Nathan Ogden a brother of Amos was killed. It was claimed by the hand of Lazarus Stewart. That night Stewart fled to Connecticut and the Pennamites retained possession until the following July when Butler and Stewart began the siege of Fort Wyoming which capitulated August 20th. This ended the first Yankee-Pennamite War.

The success of the Yankees encouraged settlement and many farm families came with their horses, cattle sheep and swine from the eastern colonies and New York. They were accompanied by skilled artisans, masons, millwrights, carpenters, cabinet makers, saddlers and blacksmiths who in their forges were the first to burn anthracite coal. Sawmills, gristmills and distilleries were erected. Substantial log houses and barns were built, orchards planted, wells dug and fields fenced. Most of the valley was cleared of timber and the fertile lowlands yielded bounteous crops of wheat, rye, corn, oats and potatoes. Large shoals of

shad came up the river in the spring and these were netted and salted for winter use.

Public schools were established and maintained from the income of the lands set aside by the Susquehanna Company for their support. Five new townships were surveyed, allotted and largely settled viz: Newport, Huntington, and Salem south of the valley, and Exeter and Providence to the north.

No longer bedeviled by the Pennamites the settlers had time to quarrel among themselves; and to correct the miss-behaving, as no civil government existed among them, they, in 1773, entered into a mutual and signed agreement providing for the election by the people of governing directors, constables and tax collectors. They did not assume the infliction of corporal punishment and criminal offenders were turned over to the nearest Connecticut magistrate for trial. The agreement only provided for penalties, by fines, forfeitures and exile. At most it was only a poor makeshift of government and yielding to the importunities of the settlers, Connecticut, in 1774, assumed jurisdiction of the territory and formed the vast town of Westmoreland, extending from the Delaware river westward to a line fifteen miles west of Wyoming and running north and south from the 41st degree of latitude to the New York line. This town was annexed to Litchfield county. It was divided into districts coterminous with the Susquehanna Company townships and the additional ones of Cushietunk and Shohala on the Delaware and Bloomingdale on the Wallenpaupack. Two members of the Connecticut Assembly were elected from the town and took their seats. The 24th Regiment of Connecticut militia was organized in the town and Zebulon Butler was commissioned colonel. In 1776, the town was created a county of the same name. A sheriff was chosen, provision was made for holding court and Increase Mosley, a Connecticut lawyer was appointed judge.

After a peace of more than four years, another Yankee-Pennamite War flared up. In December 1775, Colonel Plunkett with some six hundred Pennsylvania militia marched up the river from Sunbury and invaded Westmoreland. Colonel Zebulon Butler mustered his regiment to resist the invasion. A little above Nanticoke Falls on the west side of the river, a great ledge or rampart of rock extends from the river to the summit of the mountain. Behind this natural fortification Butler posted his men. Lazarus Stewart with his rangers occupied the east side

of the river and protected the Yankee flank. The morning of the 25th Plunkett advanced and the Battle of Rampart Rocks began. All that Christmas day the conflict raged, but a little before dark, the Pennamites broke and fled. The Yankee losses were considerable but their enemy suffered many dead and wounded men.

At the outbreak of the Revolution the fertile stretches of lowland along the Susquehanna river had been occupied nearly to the New York line; and the Yankees had extended their settlements into the Huntington Valley and along the Tunkhannock and Wyalusing.

Some of the settlers, along the Susquehanna river and north of the Wyoming Valley, suspected of being Tories were arrested by the Westmoreland officials and sent to Hartford for trial. Upon their release, they fled to Fort Niagara and joined Major John Butler's Corps of Rangers, largely recruited among the Tory refugees from the Mohawk Valley. These Westmoreland Tories were now in position to revenge themselves when opportunity offered.

The population of Westmoreland was then, probably between three and four thousand. Many of the young men had joined the American forces; and two full companies had been recruited and attached to Washington's army. Zebulon Butler had become colonel of a Connecticut regiment of the Continental line.

Early in 1778, the British decided to destroy Wyoming, the most populous and prosperous of the isolated settlements. The plan was hatched at Fort Niagara and Major John Butler was given command of the expedition. Late in June, he assembled at Tioga Point his force, some two hundred rangers and about five hundred Seneca warriors led by Sayenqueraghta. Thence they floated down the river and landed below Tunkhannock the evening of June 29th and the next morning marched through the hill country and camped that night on Mt. Lookout in Kingston township and overlooking Wyoming Valley. The evening of July 1st they invaded the valley, occupying Fort Wintermute in the lower part of Exeter township, where they remained inactive during the following day.

Meanwhile, the inhabitants, panic stricken, fled to Forty Fort, a considerable fortification in Kingston, where during the forenoon of July 3rd, most of the companies of the Twenty Fourth Regiment were assembled. Colonel Zebulon Butler was given command and he and other prudent leaders counseled

resistance within the fort, but they were overruled by Lazarus Stewart and the impetuous ones, and it was decided to meet the enemy in open battle. At one o'clock in the afternoon, the whole force a little over three hundred men marched from Forty Fort and formed a line of battle near Fourth Street in the present Wyoming Borough. The right wing was commanded by Colonel Butler supported by Major Garrett and Captain Robert Durkee; and the left wing by Colonel Nathan Dennison supported by Lieutenant Colonel George Dorrance and Captain Samuel Ransom.

From there, they marched about a mile and faced the British line, which had been formed from Fort Wintermute westward. The Americans began the battle and had fired only three volleys, when a band of Indians hidden in a swamp on the American left flank rushed from their concealment and encompassed the Americans in the rear. This broke the entire line and in their attempted flight most of the Americans were captured by the savages. Durkee, Ransom, and the captain of every company were killed. Colonel Dorrance being wounded was captured and murdered the next day.

That night the prisoners were massacred with the most revolting cruelty. Around Queen Esther's rock, fourteen of them were clubbed to death by the halfbreed, Esther Montour. In another circle nine bodies were found. Only two prisoners, Lebeus Hammond and Joseph Elliott escaped. In the Wyoming Massacre probably more than two hundred were slain, although the monument at Wyoming lists only one hundred eighty two names.

The next day Forty Fort surrendered and although no women and children were killed the Indians burned and plundered the settlements. The surviving inhabitants became panic stricken and some fled down the river to Sunbury, but most of them went over the mountains to Stroudsburg and Bethlehem. In the swamps of the desolate Pocono region many perished from exhaustion and starvation.

The next year, General Sullivan rendezvoused his army at Wilkes-Barre, and from there marched up the river and destroyed the Indian villages in western New York. Thereafter, most of the survivors returned to Wyoming and although subjected to Indian depredations suffered no great disaster until the close of the Revolution.

CHAPTER III

THE DECREE OF TRENTON

In the preceding pages, the historic background of Westmoreland has been briefly described; and in the present chapter, the final determination of the jurisdiction will be considered.

By 1782, the Susquehanna Company had created and allotted the following seventeen townships: Salem, Huntington, Newport, Hanover, Plymouth, Kingston, Wilkes-Barre, Pittston, Exeter, Bedford, Northmoreland, Providence, Putnam, Braintrim, Springfield, Claverack and Ulster. Before the Revolution, the Penns had granted some of their lands in the Manors of Stoke and Sunbury into which they had divided most of their lands in the Wyoming Valley; and their grantees together with those granted lands by the State of Pennsylvania after it acquired the Penn possessions, constituted the Pennsylvania claimants who now prosecuted their claims, by means fair and foul, with greed and avidity.

After the separation from Great Britain, no authority existed whereby the jurisdiction of the disputed territory could be determined until the Articles of Confederation were adopted by the ratification of Maryland, March 1, 1781. Section II, Article 9 of these articles established the authority and method of determination. It constituted Congress the last resort in all disputes, between two or more states, concerning boundary and jurisdiction; and provided that when any state, in controversy with another, petitioned, Congress should cite the other state, fix and give notice of the time for the appearance of the parties who should jointly appoint not less than seven nor more than nine commissioners or judges to hear and determine the case.

Pennsylvania did not long delay action and eleven days after the adoption of the Articles of Confederation by Maryland, her Assembly directed the Executive Council of the state to petition Congress,¹ but upon the advice of the Pennsylvania delegates in

¹ *Pa. Archives*, 1st Series, Vol. IX, page 4.

Congress, action was deferred.² Congress took cognizance of the petition on November 14th, and fixed the fourth Monday of June following for the appearance of the respective parties.³

The Yankee settlers at Wyoming were dismayed by these proceedings in Congress. Most of them little understood what it was all about, but like other unfortunate people in a crisis, they instinctively felt it portended an ominous future. They were a helpless people, poor and bereft by the savage massacre of many of the leaders they trusted most. They had settled, improved and held their farms under titles they believed to be good. Persistently struggling against the odds of a terrible adversity, they had endured the oppressions of a hostile state and suffered despoilment and desolation by a savage foe. Their old men and maturing youths had been slain that terrible night in 1778. Now, most of their young men were still away in the armies of their country; and because of their love of liberty and independence they had suffered more than any other people in the United States.

Their farms were then mainly occupied by the widows and orphans of the slain, who had returned to their ruined homes because they had no other place to go. The settlers of Wyoming were an industrious and frugal people devoted to the free institutions of their native colony. Nearly every citizen of Connecticut was a freeholder and every freeholder had an equal voice in the conduct of the government untrammelled by the interference of the king's bureaucratic aristocracy. Likewise in the management of their Congregational Church every member had his say, free of the domination of clergymen and bishops and the bewilderment of ritualistic forms. They were a literate people for Connecticut had enjoyed the blessings of free schools for generations; and in the creation of every Wyoming township a portion of the land was set aside for the support of education.

The institutions of Pennsylvania were alien to them. They could not understand why the people of that province should be subject to a governor appointed by and answerable to a feudal baron in faraway London; nor could they understand why a minority of Quakers in Philadelphia should dominate the Assembly and the majority of the people. They knew nothing of landlords and tenants, proprietary manors and the feudal tenures of

² *Ibid.*, 306-307.

³ *Ibid.*, 447.

Pennsylvania with their quitrents and forfeitures. Slight was their knowledge of the cunning connivance of the rich land grabbers of Philadelphia who had gouged the Penn heirs and bamboozled the Commonwealth out of the choicest lands.

Wyoming was an isolated place and the settlers there a friendless people, two hundred miles from Connecticut which for thirteen years had liberally governed them. Yet they were not wholly without friends, for the plain German farmers and the rugged Scotch Irish, in the adjoining counties of Northampton and Northumberland, sympathized with their sufferings and befriended them whenever they could.

June 24th being the day fixed, Pennsylvania appeared by William Bradford, Joseph Reed, James Wilson, and Jonathan Sergeant, counsellors and agents and Henry Osborne, solicitor. Eliphalet Dyer alone appeared for Connecticut, the other agents and attorneys appointed by that state, William Samuel Johnson and Jesse Root being absent. At a subsequent session of Congress, Connecticut moved a resolution to postpone the appointment of the judges until the termination of the war, because sundry and important papers in England could not be procured during the war. It appears that consideration of this resolution was postponed⁴; but as Congress, on July 16th, directed appointment of the commissioners, it was thereby negated.⁵

After numerous conferences, the attorneys for Pennsylvania and Connecticut agreed upon the appointment of William Whipple of New Hampshire, Welcome Arnold of Rhode Island, David Brearly and William Churchill Houston of New Jersey, Cyrus Griffin, Joseph Jones and Thomas Nelson of Virginia and any five of them to constitute a quorum. The time for the meeting was fixed for November 12th and the place, at Trenton, New Jersey.⁶

Not until November 18, 1782 was the required quorum of five judges present, when the court organized by the election of William Whipple as president and John Neilson as clerk.⁷ Never before in America was a case of such magnitude tried. It affected a vast territory, many people and an enormous amount of property. The first of our great state trials, it was observed with

⁴ *Ibid.*, 570.

⁵ *Ibid.*, 584.

⁶ *Ibid.*, 624, 686. It seems Welcome Arnold was substituted for General Greene, and Thomas Nelson for John Rutledge.

⁷ *Ibid.*, 696. Joseph Jones and Thomas Nelson did not participate in the trial.

critical interest throughout the country. The judges were considered of respectable talents and character. The counsel engaged were among the most astute lawyers in the United States. William Bradford was attorney general of Pennsylvania. James Wilson was later a justice of the United States Supreme Court, and Joseph Reed and Jonathan D. Sergeant were eminent members of the Philadelphia bar. Jesse Root was the leading lawyer of Connecticut, then a member of Congress and later Chief justice of that state. William Samuel Johnson was the most scholarly of these lawyers and Eliphalet Dyer was a popular advocate and had been chief guide of the Susquehanna Company from its inception.

The case was skillfully and vigorously tried, and the incomplete records indicate it was fairly conducted by the court. But there were suspicions, then, that all was not as fair as it seemed; and there were hints, that the politicians, in Connecticut and Pennsylvania, had concerted together and that a deal had been made. The Pennsylvania counsel were insistent and confident as lawyers usually are, when they have a friendly court; and the Connecticut lawyers were dilatory and timorous, as though suspecting a predetermined judgment. The judges, secretly between themselves, strangely decided that they would express no opinions and that a majority vote should be proclaimed as a unanimous judgment. This arrangement remained secret until long after the adjudication. Subsequent events indicate a political arrangement had been made and since discovered evidence confirms this suspicion.

At the second session of the court, the Connecticut attorneys moved that those in possession of the land in the disputed territory be cited and permitted to defend before any further proceedings. The court rightly denied the motion, this being a suit under Section 2, providing for the adjustment of disputes between states and not for the settlement of controversies concerning the private right of soil, which was specifically provided for under Section 3, and that the two actions could not be blended in the present suit.⁸

Pennsylvania's claim was based upon: 1. The Charter of William Penn; 2. The Indian purchases of land and particularly the deed of preemption obtained in 1736; 3. the boundaries of Pennsylvania on the north the 42nd degree of latitude; 4. the

⁸ *Ibid.*, 697, 698.

acquisition by the Commonwealth of the right of soil and estate of the proprietaries (Penn heirs); 5. the violent and unlawful intrusion of the settlers claiming under title from Connecticut.⁹

Connecticut's claim set forth: 1 (a) Discovery of Sebastian Cabot and grant by James I to the Plymouth Company (Council of New England) of the territory between the 40th and 48th degrees of latitude and extending from sea to sea; (b) the grant, to Sir Henry Roswell and others in 1628 and the confirmation thereof by Charles I in 1629, providing the lands were not already possessed and inhabited by citizens of another state; (c) the grant in 1631 of the Earl of Warwick president of the Council of New England to Lord Say and Sele; (d) the extension of this claim to the west side of the Delaware river as early as 1650 and Indian purchases made there. 2. The Charter of Connecticut by Charles II, April 23, 1662 and grant thereby of all territory bounded on the east by Narraganset bay or river and from where it falls into the sea north to the Massachusetts line and west by the South Sea (Pacific Ocean). 3. The grant to the Duke of York of the land between the west side of Connecticut river and the east side of Delaware Bay and the settlement of the boundary line between Connecticut and New York. 4. The Susquehanna and Delaware purchases from the Indians and settlements thereunder. 5. The exercise of jurisdiction by Connecticut over the land so purchased.¹⁰ Thus, perhaps tiresome to the reader, is presented the legal pleadings upon which the case was tried.

For years before the trial, a paper warfare had been waged. Dr. William Smith, Provost of the University of Pennsylvania wrote the principal pamphlet in favor of the Pennsylvania claim, an ingenious argument covering all phases of the controversy. Even in Connecticut sentiment was divided, due to the political situation there. The faction led by Governor Trumbull favored the Susquehanna Company purchase and the opposing party denounced it with bitterness. In Congress, the dispute excited much discussion, and Thomas Paine in *Common Sense* urged the inability of Great Britain to settle the controversy as an argument in favor of independence.¹¹

Thomas Penn, in 1761, had secured the opinion of Charles

⁹ *Ibid.*, 700.

¹⁰ *Ibid.*, 702, 708.

¹¹ *Paine's Works*, Edition of 1925, Vol. 2, page 160.

Pratt, then attorney general and afterward Lord Camden, to the effect that posterior grants would in point of law be superseded by prior charters, but the settlement of the boundary between Connecticut and New York "has now conclusively precluded Connecticut from advancing one foot beyond these limits."¹²

The same year, the Susquehanna Company appointed Eliphalet Dyer its agent in England and authorized him to petition the crown for a grant of the lands purchased by the Susquehanna and Delaware companies and for the incorporation of the territory so purchased in a new colony. This petition was duly presented to the King in Council but no action was ever taken thereon.¹³ While in England, Dyer obtained the opinions of four eminent English lawyers, Edward Thurlow and Alexander Wedderburn afterwards Lord Chancellors, and Richard Jackson and John Dunning, who held that: "The agreement between the Colony of Connecticut and the Province of New York can extend no further than to settle the boundaries between the respective parties and has no effect upon other claims either of them had in other parts; and as the Charter of Connecticut was granted eighteen years before that to Sir William Penn, there is no ground to contend that the crown could at that period make an effective grant to him of the country so recently granted to others".¹⁴

In the trial of the case, Connecticut certainly proved the vital averments of its statement of claim, viz: prior grant of the crown by its charter in 1662; prior purchase of the Indians by the deed of 1754; thirteen years occupation and possession of the disputed territory; and the exercise of civil jurisdiction there for more than eight years.

Pennsylvania principally relied upon: the deed of preemption obtained in 1736 whereby the Indians agreed to sell no land within the limits of Pennsylvania except to the heirs of William Penn¹⁵; estoppel of Connecticut by declarations of certain officers of that state, that its western boundary was the New York line, but it was shown that these declarations were only made by them as individuals and not by official action of the state.

The trial of the case proceeded and every phase of it was

¹² *Pa. Archives*, 2nd Series, Vol. 18, page 178.

¹³ *Pa. Archives*, 2nd Series, Vol. 18, pages 36 and 37.

¹⁴ *Ibid.*, 176.

¹⁵ *Pa. Archives*, 1st Series, Vol. I, page 494.

discussed and considered.¹⁶ Connecticut stood on her rights under the charter of 1662 and proved the prior deed of 1754 from the Indians, but insisted no title was valid except the title from the crown and that the Indian purchase had little relevancy except as a step to quiet possession. Proof was made of thirteen years possession by actual bona fide settlers and improvers of the land, and the uninterrupted civil jurisdiction of the disputed territory for eight years. The position of Connecticut was simple and seemingly legally complete and conclusive.

Pennsylvania had the onerous burden of establishing that the Connecticut charter grant did not cover the western territory between the 41st and 42nd degrees of latitude. It contended that the king's knowledge of North America was so vague and uncertain in 1662 that "from sea to sea" meant little as it was then supposed that the South Sea (Pacific Ocean) was not far inland. But this contention was answered by the fact that Sir Francis Drake had explored the California coast in 1589, and by the statement made in 1635 in the surrender of the Plymouth Charter, that it was 3000 miles to the South Sea. Estoppel was also invoked.

Governor Hoyt suggests¹⁷ that Connecticut might be considered estopped by its dereliction in not asserting its title earlier and "throwing the settlers and their private rights out of the case," he regards this as the weak link in the Connecticut claim of title. Be this as it may, the failure of Massachusetts to assert her claims to western lands against New York did not estoppel her from retaining ownership of a large section of western New York.

The main contention of Pennsylvania, and in accordance with Lord Camden's opinion, was the settlement of the New York boundary line barred any Connecticut claim farther west. It would appear the following analogy answers this contention. A is deeded a strip of land divided in the center by the occupation of B who holds up adverse possession or by a prior deed. A and B agree upon the boundaries of the land B possesses. Neither lawyer nor layman would dare assert that their agreement deprived A of his ownership of the unoccupied part of the tract beyond the limits of B's possession.

¹⁶ Briefs of respective counsel in the case. Notes made by Cyrus Griffin at time of trial, see unpublished *Susquehanna Company Papers*, photostatic copies in Wyoming Historical and Geological Society possession.

¹⁷ *Brief of Title in the Seventeen Townships* by Henry M. Hoyt, page 51.

"The better opinion is that Lord Camden was wrong," and Sidney G. Fisher, a Philadelphia lawyer and Pennsylvania historian concedes:¹⁸ "but so far as technical law is concerned his lordship is now generally believed to have been wrong. The royal commission boundary and the agreement boundary were adjustments of a dispute between Connecticut and New York not between Connecticut and Pennsylvania." Thus according to him, Pennsylvania's defense was no defense at all; but being a strong partisan of his state and hard put to maintain a semblance of legal right to Pennsylvania's claim, Mr. Fisher relies on a novel theory of his own concoction, viz. that the king could change his mind and grant to others what he had previously granted. Of course he could change his mind and make a new grant but was it valid. It is strange that Mr. Fisher, of all the eminent lawyers English and American who have gone into the matter, should have discovered the legal kink which justifies the Pennsylvania claim; and make his great discovery at this late day, when he was not practicing law but writing history with the laudable purpose of puffing his native state.

He declaims at great length like a lawyer who has much to say and little to cite and argues and argues he is right because the king later granted to the Duke of York all the territory west of the Connecticut river although already granted to Massachusetts and Connecticut. But as a matter of fact no one ever attempted under that grant to encroach on the prior rights of Massachusetts and Connecticut, and by common understanding and agreement the grant up to the Connecticut river was regarded as invalid. The other case cited by Mr. Fisher, where the king changed his mind was the grant of North Carolina to Sir Robert Heath and a subsequent grant of it to the Earl of Clarendon. The Heath patent was declared void before the Clarendon grant, "because the purpose for which it was granted had never been fulfilled."¹⁹ It was evidently a case of abandonment by the grantee and attested by an official declaration or judgment.

No English nor American lawyer has ever maintained before that a vested right could be arbitrarily taken away by the king. It could only be divested by surrender, abandonment or some similar voluntary act of the holder; or adversely by bill of

¹⁸ *The Making of Pennsylvania*, page 254.

¹⁹ Bancroft, *History of the United States*, Vol. I, page 409.

attainder, quo warranto, scire facias, common recovery or some other legal proceeding.

The five most eminent English lawyers of the time mentioned above agreed that the king could not make a valid grant of that previously granted to others. Lord Camden employed by Mr. Penn declared: "Posterior grants would in point of law be superseded by prior charters"; but to please an eager and remunerative client and without too great a sacrifice of professional pride added the qualification, that the New York boundary agreement barred the Connecticut claim westward. Thurlow, Weddeburn, Jackson and Dunning said: "There is no ground to contend that the crown could at that period make an effectual grant to him (Penn) of that country which had been so recently granted to others. They were all crown lawyers pretty generally engaged in defending the king's prerogative and not likely to deny a royal right so great as that maintained by Mr. Fisher.

Mr. Fisher's novel theory was not urged at the Trenton trial. I can find nothing in the brief of counsel indicating it was even alluded to. Mr. Fisher attempts to construe a note of Mr. Wilson's about "intention of parties" as pointing towards his view; but this strained construction is only a flight of his imagination to bolster up an absurd theory. He indulges in a good deal of argumentative rhetoric to support his assertion that the king could do as he pleased, because there is no written English constitution. It is true parliamentary action is not limited by a written constitution; but even parliamentary actions always follow precedents, which constitute the constitution of England. England was not at that time any absolute monarchy, and the king's prerogatives were strictly limited by an unwritten constitution. The grant of the Connecticut charter was an executive and not a parliamentary act. So was the grant to Penn. They both constituted vested rights, which could not be voided by any subsequent arbitrary act of the king. This is why the five eminent crown lawyers gave the opinions they did. If the Fisher theory had been the law no one's property in England would have been safe and England would have been a despotism as absolute as that of Turkey. If there had been any question, about the limited power of the king, it had been settled long before the Connecticut grant and for all time when Cromwell cut off the head of Charles the First. I recall no way by which even parliament with its almost unlimited power has taken away a vested right except by

bill of attainder, a procedure as old as parliament itself, whereby the blood of a traitor is attainted and all his titles, property and other vested rights are forfeited.

Despite all that has been urged in support of the Pennsylvania claim, a fair conclusion is that that state did not have a legal title to the territory between the 41st and 42nd degrees of latitude, or as Governor Hoyt of Pennsylvania, later put it: "There is it is true no defect in the technical legal title of the Colony of Connecticut." ²⁰

Nevertheless, the Court at Trenton, on December 30, 1782 made the following decree:

"We are unanimously of opinion that the State of Connecticut has no right to the lands in Controversy.

We are also unanimously of Opinion that the jurisdiction and Pre-emption of the Territory lying within the Charter boundary of Pennsylvania and now claimed by the State of Connecticut do of right belong to the State of Pennsylvania." ²¹

Why was this decision so made? It was an act of policy to settle a dispute which had troubled the country and impaired the authority of Congress. It has been considered by public opinion and subsequent legislative action as a political and not judicial determination. The evidence and circumstances indicating this are manifold. Connecticut had little interest in the Wyoming occupaton and could derive no pecuniary benefit from a retention of the civil jurisdiction of the region. The members of the Susquehanna Company and not the state were the owners and occupiers of the land there. But the state did have a great expectant interest in the rich lands within its charter limits west of Pennsylvania. By a settlement with Pennsylvania and the retention of lands west of that state, certain Connecticut politicians saw a great benefit to their state and possibly to themselves individually by a future sale of the lands so retained. Hence the motive for a prearranged adjudication. All this was surmised at the time. The attitude of the Connecticut attorneys was dilatory and unaggressive, indicating little confidence in the outcome and cognizance of the rumor. There were also suspicions that some of these lawyers were privy to the scheme. They acquiesced to the decision without protest or murmur of discontent. ²²

²⁰ *Brief of Title in the Seventeen Townships*, page 50.

²¹ *Pa. Archives*, 2nd Series, Vol. 18, page 629.

²² *Miner, History of Wyoming*, page 440.

Accompanying the decree was the following letter to President Dickinson of Pennsylvania, which, however, was carefully concealed by that state for thirteen years:²³

Trenton, 31st December, 1782

Sir: We take the liberty to address your Excellency as private citizens lately honored with a commission to hear and determine the controversy between the States of Pennsylvania and Connecticut relative to a dispute of territory. In the course of executing this commission, we have found that many persons are or lately have been settled on the land in question. Their individual claims could in no instance come before us, not being in the line of our appointment.

We beg leave to declare to your Excellency that we think the situation of these people well deserves the notice of government. The dispute has long subsisted. It may have produced heats and animosities among those living in or near the country in contest and some imprudences may take place and draw after them the most unfavorable consequences.

With all deference, therefore, we would suggest to your Excellency and council, whether it would not be best to adopt some reasonable measures to prevent any, the least disorder or misunderstanding among them, and to continue things in the present peaceable posture until proper steps can be taken to decide the controversy respecting the private right of soil in the mode prescribed by the confederation. We doubt not an early proclamation from the Executive of Pennsylvania would have all necessary good effects and we feel ourselves happy in the fullest confidence that every means will be adopted or acquiesced in by the State to render the settlement of the dispute complete and satisfactory as far as may be to all concerned.

We have the honor to be with great respect your Excellency's obedient and humble servants

WM. WHIPPLE
WELCOME ARNOLD
W. C. HOUSTON
DAVID BREARLY

President Dickinson

Why this letter? If they had done their strict judicial duty and decided according to law, there was no occasion for it. Under their decision, the settlers were intruders, trespassers and must take the consequences of their unlawful acts. But if the decision was the result of prearrangement, a guilty conscience on the part of the judges may have dictated this supplication.

²³ *Pa. Archives*, 2nd Series, Vol. 18, page 629.

Mr. Miner observes²⁴ that the perfect unanimity of the court is remarkable and the brief judgment with not a solitary opinion given is suspicious; but not if the whole trial was a political movement, a mere Common Recovery intended to carry into effect a previously undisclosed arrangement between Pennsylvania and Connecticut. The following letter, which was also kept carefully concealed by Pennsylvania for twelve years may be considered explanatory and confirmatory of Mr. Miner's assumption:²⁵

Trenton, January 1, 17—

Sir: Being upon a tour of duty in the line of my office, I had not the pleasure of reading your letter until yesterday.

Before the commissioners determined the important land contest between Pennsylvania and Connecticut, it was agreed

1st: That the reasons for the determination should never be given.

2nd: That the minority should concede the determination as the unanimous opinion of the court.

No doubt sufficient reasons appeared to us to adopt these preliminary points. Whether strictly justified or at present would be adopted, I will not undertake to say. Perhaps a different course might be at present but this I will undertake to say that no court ever met and decided a great question less subject to partiality or corruption, or in which more candor and freedom of debate were exercised.

As you seem to suppose, I do not know in what manner the jurisdiction might be considered if tried again, and especially since a number of important discoveries have been made and a mass of evidence can now be produced which was not known at that time. But I can assure you, sir, that the commissioners were unanimously of opinion that the private right of soil should not be affected by the decision. The decision was not to reach the question of property in the soil.

We recommend very strongly derived from legal and political grounds, that the settlers should be quieted in all their claims by an act of the Pennsylvania Assembly; and that the right of soil, if I recollect truly, as derived from Connecticut should be held sacred. Such, however, I am certain was the opinion of the individuals who composed the court.

I have the honor to be

Your humble servant

CYRUS GRIFFIN

To President Dickinson

As to the reason to be given for the decision, it may be observed that if the judgment was prearranged, the less said

²⁴ Miner, *History of Wyoming*, page 44.

²⁵ *Pa. Archives*, 2nd Series, Vol. 18, page 631.

the better. If all were not agreeable to or ignorant of a predetermination it was best to bind them by the unanimous agreement. It will be observed that Griffin did not sign the first letter and goes much further in proclaiming the rights of the settlers and casts doubts, because of subsequent disclosures, on the correctness of the court's course. May it not be that he was an innocent and hoodwinked judge. At least his letter indicates that he was a conscientious man.

We will now pass to an examination of subsequent circumstantial evidence of prearrangement. The rest of the country demanded that the states having "Sea to Sea" grants should cede their unoccupied lands to the general government; and in compliance with this demand, Connecticut, in May, 1786, offered Congress a deed of cession, granting all right, title, interest, jurisdiction and claim to lands between the 41st and 42nd degrees of latitude west of a line beginning one hundred and twenty miles west of the western boundary of Pennsylvania. By this deed Connecticut retained or reserved jurisdiction and ownership of a tract of land one hundred and twenty miles long and one degree of latitude wide. This is the famous Western Reserve of Ohio. May 26th, Congress accepted this deed of cession by the following resolution: "Resolved that Congress accept the deed of cession and that the same be recorded and enrolled among the acts of the United States in Congress assembled."²⁶

It is to be noted, that Pennsylvania voted with Connecticut five times on motions concerning this reservation and cession. What was the reason of this close friendship on a matter so vital to the interests of Connecticut. It must also be observed that the Western Reserve has the same dimensions and area as the Susquehanna Purchase. Are these mere innocent coincidences or something else?

The United States by her acceptance of the cession with the reservation and Pennsylvania by her votes recognized the validity of the Connecticut claim under the charter of 1662. Does not this indicate they both regarded the Trenton Decree as a political and not judicial determination?

How did contemporary statesmen view the Connecticut-Pennsylvania dispute? Madison in the Seventh Number of the *Federalist* said: "Connecticut was not entirely resigned to the

²⁶ Acts of Congress; Hoyt Brief of Title; 47, 48, 49; Miner, *History of Wyoming*, 446, 447.

determination till by negotiation and management for the loss she supposed herself to have sustained." In a speech in the Constitutional convention in 1787, Madison said: "In fine have we not seen the public land dealt out to Connecticut to bribe her acquiescence in the decree constitutionally awarded against her claim on the territory of Pennsylvania." ²⁷

Pretty direct proof of the collusion between Connecticut and Pennsylvania follows. In the Wadsworth Papers, with the Connecticut Historical Society which evidently were not available to early historians, is direct proof of the arrangement between them. Jeremiah Wadsworth, a prominent politician of Connecticut who greatly enriched himself by the acquisition of western lands appears to have been the go-between, agent or as we would now call him the lobbyist of the transaction. Under date of May 27, 1786, Charles Petit, a Pennsylvania representative in Congress wrote him as follows: "It was generally understood by the representatives of Connecticut that their state would give no further countenance to the Susquehanna Company but would induce them to relinquish their claims offering compensation in the Western Reserve."

That Wadsworth was in full agreement with the foregoing letter and was secretly acting in the interests of Pennsylvania is indicated by the following letter written by him and contained among the Pickering Papers:

Hartford, June 10, 1787

Dear Sir: Your letter received here after Franklin had been received before our assembly and part of his memorial granted in the Lower House but will not be granted in the upper and his whole scheme is fallen to the ground. I am persuaded you will never be interrupted by our legislature. *Your correspondence with me on the subject must be kept to yourself but you may always assert any of the facts I write you and allege yourself for their proof which I will furnish in case needed.* I am

Your very obedient servant

JERE WADSWORTH

To

COL. TIMOTHY PICKERING,
Philadelphia"
(Italics mine.)

²⁷ Madison Works, Vol. II, page 497.

Perhaps, the best excuse for the Decree of Trenton was the absurdity of the situation of a state exercising civic jurisdiction over a divided territory separated by two hundred miles. At any rate, Pennsylvania was better located to govern the disputed territory and hence a seeming injustice has achieved a beneficent result.

The adjudication made every one happy, states, land jobbers, politicians, and all except the unfortunate settlers who by their cultivation had made valuable the land consecrated by their blood.

CHAPTER IV

PATTERSON AND ARMSTRONG

On January 4th, 1783, a messenger from Trenton arrived at Wilkes-Barre, and informed the inhabitants, of that stricken town, that they were no longer citizens of Connecticut. All was uncertainty among them, but as only the civil jurisdiction had been determined there was hope that Pennsylvania would treat them justly. A little later they were cheered by a conciliatory proclamation of President Dickinson.¹ The disposition of the Wyoming people was to accept, perhaps with reluctance, the government of Pennsylvania; and seek the state's confirmation of their land titles. Accordingly, they appointed John Paul Schott, their agent and dispatched him to Philadelphia, where he presented a petition to the Pennsylvania Assembly.² It promised submission to the laws and government of Pennsylvania and prayed that they be confirmed in the possession and ownership of their farms.

Mr. Miner observes that the tone of the petition indicates the pen of a lawyer and an understanding between the Connecticut and Pennsylvania attorneys "that not only that jurisdiction should be given up, but the Wyoming people abandoned to the mercy of the land holders"; and "that the petition was prepared below the mountains, probably by the Connecticut agents at Trenton with the concurrence of those of Pennsylvania."³

Acting on the petition, the Assembly resolved that commissioners be appointed to make full inquiries and report; obtain a reasonable compromise between the parties but if impossible to report plans of accommodation for an equitable and final adjustment of all difficulties; and that upon receipt of their report an act be passed providing for the choice of justices of the peace, the place of holding annual elections, oblivion for

¹ *Pa. Archives*, Second Series, page 632.

² Miner, *History of Wyoming*, page 311.

³ *Ibid.*, pages 311, 314, 315.

past offenses and staying all law proceedings against the settlers. It also provided that Captains Robinson's and Schrawder's companies of rangers be sent to Wyoming ostensibly to protect the settlers against the savages, although all danger of an Indian invasion was now over.⁴ Thereunder, Joseph Montgomery, William Montgomery and Moses McLean were appointed commissioners, and an act was immediately passed staying the prosecution of suits against the settlers.⁵

So far Pennsylvania had evinced a disposition to be fair; but brutal greed, the uncontrolled passion of a few who coveted immoderate wealth, which has ever upset the calculations of better men, soon prevailed. Alas this inordinate greed has wrought corruption of government, bribery of legislators, oppressions, land riots, labor riots, tumults and revolutions; and has resulted in the conception, as antidotes for these confusions, of socialism, paternalism and communism which imperil society.

A considerable number of Pennsylvanians, including some of the richest families of Philadelphia, had acquired, mostly without cost to themselves from the Penn heirs, claims to the Wyoming lands, and now banded together they constituted a formidable ring of land jobbers, who by influence and bribery controlled the Assembly and dominated the government of Pennsylvania. To them and their unconscionable agents may be ascribed the malign actions which disgrace the history of the state.

That no one may misjudge the following pages overdrawn, the reader is referred to the bitter denunciation of Sidney G. Fisher,⁶ a strong advocate of Pennsylvania, who says in opening his discussion: "As to the right of these settlers to continue to own their farms, there has never been but one opinion among the honest and intelligent. They had entered under color of title. They had been led by all the circumstances of the situation to believe their title good. It had been granted to them by a recognized and orderly government. They had cultivated the land, improved it, and with a heroism almost unequalled in history defended the northern border of Pennsylvania against the British and Indians. The transfer of the valley from Connecticut to Pennsylvania should have been merely a change of

⁴ *Pa. Archives*, First Series, Vol. IX, page 734.

⁵ *Pa. Archives*, Second Series, Vol. XVIII, page 634.

⁶ *Making of Pennsylvania*, pages 299 to 305.

political government, allowing private titles to stand as they were found. The Pennsylvania claimants who had been induced to buy paper titles from the Penns but had never occupied or improved the land should have been reimbursed for their loss from the public treasury."

Evidently the land jobbers had concerted and determined upon a cold-blooded expulsion by the harassment of the settlers with cruel annoyances and by wanton destruction of their crops, habitations and properties so dishearten them that they would voluntarily leave. But if this procedure failed to forcibly expel them from the valley. The land jobbers did not intend to occupy the vacated land but to hold it and later sell it to strangers with a neat profit to themselves. To accomplish this, they appointed Alexander Patterson, who styled himself chairman of the Pennsylvania Landholders Committee. Cruel, aggressive and relentless, he outdid the worst Irish land agents oppressions of the poor peasants of southern Ireland. A Scotch-Irishman settled in Northampton county, he had lent his services in the first struggles against the Yankees and as a hireling of the Penns was mixed up in the miserable proceedings of the first Yankee-Pennamite War.

Patterson either accompanied the commissioners to Wilkes-Barre or arrived at the same time. The commissioners, the Montgomery's and McLean supposed to be disinterested proved strong partisans of the land jobbers and yielded to the advice and domination of Patterson. During April, 1783, numerous written communications passed between the commissioners and settlers.⁷ Patterson submitted his plan of compromise, which was no compromise but the abject surrender of the settlers.⁸ It is to be observed that in the settlement of the other boundary disputes in the United States, the actual occupiers of the land were secured in their ownerships and possessions, although the jurisdiction under which they claimed had changed. Patterson proposed: 1. Pledges of obedience to be given; 2, a written and public disclaimer of all claim to their lands held under title from Connecticut; 3. the settler to take a lease of half of his farm for about eleven months and immediate surrender of the other half together with abandonment of all claim to his house and possession by April 1st following; 4. extension for

⁷ Miner, *History of Wyoming*, pages 318 to 324.

⁸ *Pa. Archives*, First Series, Vol. X, pages 302, 303.

one year of the leases to widows of those slain by the Indians; 5. extension for two years of the lease to Rev. Jacob Johnson, the minister at Wilkes-Barre.⁹

The commissioners passed these proposals, which they fully approved, to the settlers with the admonition, that if they were cheerfully accepted they would recommend the settlers' distressed situation to the notice of the legislature. Of course, the propositions were rejected and all further communications ceased.¹⁰

Notwithstanding, they were only empowered to report, the commissioners exceeded their authority and immediately erected two new townships, Stoke and Shawanese and provided for the election therein forthwith of justices of the peace.¹¹ Notices were posted only two hours before the election and immediately torn down and therefore most of the settlers had no knowledge of it. Only adherents of Patterson, mostly hirelings from New Jersey voted for the election of the following justices: David Meade, Robert Martin, John Chambers, Nathan Dennison, Alexander Patterson, John Seely, Luke Brodhead, and Henry Shoemaker. Dennison was the only Yankee chosen and the only inhabitant of Wyoming. He had no knowledge of the election and refused to serve.¹²

Patterson, then, addressed the commissioners a final communication¹³ and then repaired to Philadelphia where he apparently directed the actions of the legislature which was entirely subservient to the land jobbers. It confirmed the illegal proceedings at Wyoming and substituted the company of Captain Christie for that of Captain Robinson which had been withdrawn. In due time, Colonel James Moore assumed command of the three companies stationed at Wyoming.¹⁴ The act staying suits was repealed.¹⁵

Loaded with the authority of the government and backed by the Rangers of Schrawder and Christie, Patterson returned to Wyoming as dictator, judge and executioner.¹⁶ The fort was

⁹ *Ibid.*, pages 30, 31; Miner, *History of Wyoming*, page 325.

¹⁰ Miner, *History of Wyoming*, pages 325 to 328; *Pa. Archives*, First Series, Vol. X, pages, 33, 34.

¹¹ Miner, *History of Wyoming*, page 328.

¹² *Ibid.*, page 328.

¹³ *Pa. Archives*, First Series, Vol. X, page 135.

¹⁴ *Ibid.*, page 132.

¹⁵ Miner, *History of Wyoming*, page 330.

¹⁶ The authorities for the Patterson proceedings are the histories of Chapman and Miner, who came to Wyoming about the time of the final settlement of the dispute and were acquainted with most of the leaders in the desperate struggle.

renamed Fort Dickinson; and Patterson changed the name of the place from Wilkes-Barre to Londondery as the first steps in the eradication of the Yankee occupation. The soldiers were billeted in various houses and as a special spite Patterson assigned twenty of them to the small house of Zebulon Butler whose wife was then dangerously ill. Numerous other indignities were contrived and executed. Colonel Zebulon Butler the most respected personage among the Yankees was seized without warrant of law or formal charge and committed by Squire Patterson to Sunbury jail, whence he was removed by a strong guard of soldiers.

Shawnee (Plymouth) was invaded and its leading men were seized without committing any offense and driven at the point of the bayonet to Fort Dickinson. Among them was Major Prince Alden, a feeble old man, suffering from an incurable disease. His staff was broken to bits by the jeering soldiers who compelled him to hobble all the way to Wilkes-Barre. Two other aged men, Captain James Bidlack and Benjamin Harvey were grossly mistreated. Samuel Ransom after being badly beaten was accosted by Patterson. "Ah' ha, you are the jockey we wanted. Away with him to the guard house with old Harvey another damned rascal." The eleven were confined in a dark room without chair, bed or blanket and only a muddy floor to lie upon. Captain Christie coming in shouted: "Lie down on the ground," and turning to the guard commanded: "Blow out the brains of anyone who tries to rise." Demanding what was their offense and if it was intended to starve them, Patterson tauntingly replied: "Perhaps in two or three months we shall have leisure and you may be set at liberty."

Meeting Captain Caleb Bates by accident and learning his name, Patterson insultingly inquired: "Why have you not been to see me," Answering, "I did not know you," Patterson thundered out: "I am Esquire Patterson of Pennsylvania," and turning to a sergeant ordered: "Take him to the guard house."

Robert McDowell, returning from Sunbury, went into a public house in Salem where Patterson was drinking and who said to him: "So, so, McDowell you are. Will you sit in the company of a tinker? (that being Patterson's occupation). "You rascal begone." And at the same time rising and violently assaulting him.

Solomon Cole was brought before Patterson, who without

evidence condemned him and ordered: "Take him to the guard house and put him in the stocks for two hours." Innumerable incidents as bad or worse might be related, indicating Patterson was a brutal ruffian and his conduct detestable.

These disgraceful proceedings becoming known aroused public indignation throughout the country and even in Pennsylvania, there were murmurings of discontent. Acting upon a petition of the settlers, the legislature appointed, Jacob Stroud, Jacob Arndt, Jonas Hartzel and Robert Brown, members of the assembly from Northampton county, a committee to proceed to Wyoming and inquire into the charges made. They conducted their inquiries with the strictest justice and impartiality.¹⁷ Their report sustained the charges of the settlers but the assembly shuffled it aside. During the debate¹⁸ Daniel Clymer, a member from Berks county read one of the depositions and declared: "There is enough evidence in this to show that Alexander Patterson ought to be recalled." Robert Brown said he had visited Wyoming as one of the committee, heard all of the evidence and that "the wrongs and sufferings were intolerable."

During March 1784, there was a devastating flood of the Susquehanna river which washed away all the buildings in the lowlands and reduced the people to penury. John Franklin and Robert Martin one of the Pennsylvania magistrates presented a memorial to the Executive Council of Pennsylvania asking relief of those who had suffered the loss of homes and property and were in a destitute condition.¹⁹ President Dickinson requested the legislature to assist the distressed people but so callous were the subservient land jobbing members that no relief was afforded.

Congress acting upon the petition of Zebulon Butler had fixed the fourth Monday of June for the constitution of a court to try the private right of soil. This threat to their claims stirred the land jobbers to renewed activity and during April, Patterson conducted a campaign of wanton destruction.

The main sustenance of the people in the spring was the shad which came up the river in great shoals. The fishermen were driven away, their seines were destroyed and those who persisted in fishing were thrown into the filthy guard house. The roads were destroyed, fences torn down and land monuments oblit-

¹⁷ Miner, *History of Wyoming*, page 339.

¹⁸ *Ibid.*, page 340.

¹⁹ *Pa. Archives*, Second Series, Vol. XVIII, page 636.

erated. Supplies of water were polluted and wells filled up. Helpless widows and orphans were driven from their houses to the woods where their only shelter was a friendly bower of boughs.

Despite these persecutions, the settlers would not leave; and baffled by their persistency, Patterson determined upon a forcible expulsion, which constituted one of the most outrageous evictions in the history of the United States. It began on the 13th of May, 1783, when one hundred and fifty families were thrown out of their habitations. Women and children were driven at the point of the bayonet from their homes to the fort where they were confined without food until the following day. Feeble old men, women and helpless children were herded together like beasts in a pen and subjected to insult and outrage by depraved and ruffianly men.

Patterson ordered the land depopulated and the New England people driven back to Connecticut. None were permitted to go down the river or over the mountains to the friendly German settlements; but all were compelled to take the tedious, dangerous path through the wilderness by the way of the Lackawaxen to the Delaware river, and forced to evacuate the land they had cleared and tilled and sanctified with the blood of their slain. Over eight hundred souls were gathered together and without food, horses and oxen to assist them in their flight driven by the soldiers at the bayonet's point through the Lackawaxen wilderness and over the Moosic mountains toward the Delaware river. For fourteen days the fugitives struggled through the impassable swamps and woods. Heavy rains flooded the Wallenpaupack and women and children waded for miles through mud and water above their knees. Little children begged for bread which their mothers were unable to give. Old men and weak women fell by the wayside and died.

Helpless and hopeless, famished and pierced by the bitter winds of a late spring, they wandered about in the interminable wilderness without leadership and in confused despair, seemingly deserted by mankind and even by the God they had worshipped so well; but news travels fast and when it reached the people in the Delaware and Neversink Valleys, they packed their horses and went back along the trail and gathered in and fed and clothed the starving exiles and took them to their homes.

The better people of Pennsylvania were appalled by the

terrible tidings, and even the supine land jobbing government bent to the storm. The exiles were urged to return with assurances of protection. The troops were dismissed. Henry Antis, the sheriff and the people of Northumberland county exerted themselves in their behalf. Antis deputed Franklin and Swift Yankee leaders to arrest Patterson, Moore and forty-five of those implicated in the outrageous eviction, who were indicted, tried, convicted and fined by the Northumberland county court. But the lure of gold is ever relentless and those under its unholy spell devoid of a sense of justice and conscience are dominated by and devoted to unconscionable profit. The land jobbers belonging to the richest and best families in Philadelphia who had inspired Patterson's damnable work, believing they had now secured the land by the expulsion backed their degraded and depraved agent to the limit. He hired the discharged soldiers and organized them into a lawless band of his own, unrestrained by law and wholly subservient to the land jobbers.

Sheriff Antis attempting to protect the returning fugitives was openly defied. The exiles were refused admittance to their former homes which were occupied by Patterson's gang. The poor people sought shelter in a rocky cleft of the Wilkes-Barre mountain, which they designated Fort Lillo-pe and those who ventured forth for food were captured, stripped of their clothing and chased back to the mountain.

In the meantime, the Yankee partisan leaders, Franklin, Swift and Abbott had gathered together a little band of armed men; and under their protection, the refugees abandoned the mountains and occupied and fortified three deserted buildings on the farm of Richard Brockway near Abrahams creek in Kingston township.

On the 20th of July, a Yankee force, of twenty three men under Major Joel Abbott, while marching to Plymouth to harvest the ripening grain, was attacked by Patterson's men and Elisha Garrett was killed and Chester Pierce mortally wounded. Abbott's men took to the trees and returned a spirited fire. The enemy broke and fled. A few days later Franklin with sixty men repossessed Kingston, Plymouth and Hanover and drove their enemy to the protection of the fort at Wilkes-Barre, which he besieged. This siege continued from July 23rd until August 6th during which several lives were lost.

The politicians, always the allies of corrupt and designing

men, had rallied from the temporary fright occasioned by the uprising of the better people over the terrible expulsion, and controlling the corrupt government of Pennsylvania, now exerted themselves and the militia of Northampton county was ordered to support Patterson in his attempt to maintain the expulsion. Backed by the money of some of the richest and supposably best people of Pennsylvania, this unholy alliance of speculators, land jobbers and politicians determined to complete the work of extinction, by murder and eviction with the authority of and by the power of the government of the great state of Pennsylvania.

Major Moore one of the barbarians engaged in the terrible eviction of May and under indictment for the crime in the Northumberland county court was ordered to march to Wyoming with the Northampton militia and complete the infamous work of destruction. Learning of his advance, Captain John Swift with forty Yankees was dispatched to the Pocono mountains, to intercept them. At Locust Gap east of the Lehigh river and in Northampton county, on August 2nd, Swift attacked the advancing party. During the engagement which lasted for some time, Jacob Everett one of Moore's men was killed and several wounded. Both parties then retreated.²⁰

Robert Martin, David Meade and other negotiators arrived from Northumberland county and urged Franklin's men to cease hostilities and lay down their arms promising to disarm the garrison of the fort. On August 6th, the Yankees complied, but Patterson refused to listen to the negotiators and disarm. "Whereupon the sheriff," as Franklin says, "delivered our arms back to us—and the justices informed us that we had complied with the laws and they had no further demands. They requested us to give up the siege and to return to our homes and secure our grain and if the enemy attempted to disturb us to defend ourselves. Accordingly we dispersed crossing the river that evening." The correspondence of the Northumberland magistrates, cited by Miner, pages 351, 352, 353, discloses that Franklin's statement is correct. In two communications²¹ to the president and members of the Executive Council, the magistrates declared: "We have dispersed the Connecticut party; but our own people we can not" and "We are convinced that had it not been through

²⁰ *Pa. Archives*, Fourth Series, Vol. 10, pages 656 to 667.

²¹ *Ibid.*, page 630.

the cruel and irregular conduct of our people the peace might have been established long since and the dignity of the government supported." These letters were signed by Thomas Hewitt, Robert Martin and David Meade. Meade was a former Connecticut settler, but now a resident of Northumberland county, a strong partisan of the land jobbers and a Pennsylvania claimant of several valuable tracts of land at Wyoming.

To subdue and drive out the Yankees, the Pennsylvania government under the dictation of the land speculators, appointed Colonel John Armstrong, the secretary of the Executive Council and John Boyd a member of it, commissioners and they arrived at Wilkes-Barre, August 8th accompanied by about four hundred Northampton county militia. Armstrong, the son of a better man, the celebrated John Armstrong who destroyed the Indian town of Kittaning during the French and Indian War, was born at Carlisle. He was a man of literary attainments and the author of the "Newburg Address" which nearly disrupted the Continental Army. Under Washington, who distrusted him, he obtained no employment; but he ingratiated himself with the Jeffersonian party and was successively minister to Spain and France and secretary of war during the War of 1812. His supine conduct as secretary of war when the British captured Washington disgraced him. He was a vain, ambitious, designing man; and when he came to Wyoming an extreme partisan of, if not hireling of the land jobbers.

Armstrong faithfully promised the settlers that if they would lay down their arms, he would compel Patterson's men to do likewise; and pledged his sacred honor to do impartial justice. Accordingly, although with some suspicions, the Yankees marched into a hollow square surrounded by the soldiers. Armstrong in imposing uniform and seated on his horse, then with the arrogance of a despot commanded them: "Right about. March ten steps—halt—right about, ground your arms," which they obeyed. Upon his orders the soldiers advanced and took up the grounded arms. No attempt was made to disarm Patterson's men.

Violating his honor so recently and solemnly pledged, Armstrong coldly announced to the Yankees: "You are prisoners," and as their names were called, by a nod of his head indicated their place of confinement. Those who were in the Battle of Locust Hill were sent to the Slocum house and the others to the Butler house. The Locust Hill men were treated with great

severity and denied food for twenty-four hours. They were hand-cuffed in pairs right and left, a long rope was tied to the irons and that fastened to two soldiers who marched next, then came two more prisoners and a pair of soldiers. Thus a very long column was formed all fastened together and flanked by a strong guard with fixed bayonets.

Armstrong imperiously ordered the officer commanding the guard: "If any one attempts to escape shoot them all and the government will indemnify you for so doing." Then the dreary march over the mountains began. Three, Major Abbott, Waterman Baldwin and William Ross escaped and the rest were lodged in Easton jail, charged with the murder of Jacob Everett in the Battle of Locust Hill. They were given only a loaf of bread and water a day, and would have suffered severely had not a Jewish merchant, Michael Hart, kindly fed them.

Edward Inman, one of the prisoners a man of great resolution and strength, knocked the jailor down, seized his keys and the whole party escaped.²² Eleven of them were recaptured and after three months in jail, a bill of indictment was presented to the grand jury of Northampton county and promptly ignored. Whereupon, all the prisoners were set free.

The forty-two others, confined in the Butler house, bound together with ropes and guarded by soldiers, were sent to Sunbury, but Sheriff Antis released them on bail and no indictment was ever found against them.

Armstrong by base treachery and ignoble conduct had dispersed the Connecticut people and thought he had accomplished the pacification of the territory, but as the sequel shows he had ingloriously failed.

²² *Ibid.*, 665, 666, 667.

CHAPTER V

JOHN FRANKLIN

The prisoners who escaped from the Easton jail and those released at Sunbury immediately returned to Wyoming and united into one force under John Franklin, who henceforth by common consent became the undisputed leader of the Yankee settlers. John Franklin was born at Canaan, Connecticut, September 26, 1749, the son of John and Keziah Pierce Franklin. He married Lydia Doolittle, February 2, 1774, and soon thereafter came to Wyoming and settled in Plymouth township. Early in 1775, Huntington township was laid out by the Susquehanna Company and land therein was allotted to his father, who was a shareholder in the company. Soon thereafter unaided and alone John Franklin penetrated the wilderness and became the first settler of Huntington township. In the dense solitude of the forest with his faithful dog as his only companion, he began his clearing on the banks of Huntington creek and when he had raised his log cabin brought his young wife to their secluded home, where they resided until 1778, when the Indian incursion drove them out. In May, 1776, he was commissioned captain of the Tenth or Huntington and Salem company of the Twenty-fourth Regiment of Connecticut militia. On July 3, 1778, upon receipt of notice of the impending conflict, he gathered together the scattered men of Salem and Huntington and with them reached Forty Fort at twilight to become the mainstay of Colonel Denison during the terrible night and day that followed. Franklin removed his family to Windsor in Berks county and then hastened back to Wyoming by the way of Fort Penn. Upon his return, he carefully went over the battlefield of Wyoming and his description of the battle lines and the positions of the corpses of the slain is the most accurate account we have. He accompanied the Hartley expedition in command of a company of rangers and was specially complimented for his bravery and skill. That fall, he joined his family at Windsor, where shortly after with

his wife and children he was stricken with smallpox from which his wife died. When the others had recovered, realizing that he could not properly care for his children on the frontier, he yoked his oxen to a cart to the tail-board of which he tied a cow, and with his children, one only a few months old, he started for Connecticut to place them in his father's family. He milked the cow and fed the babe and with Spartan courage made his way, nearly three hundred miles, to his old home at Canaan. Franklin participated in the Sullivan Expedition, was justice of the Quorum of Westmoreland county and its representative in the Connecticut Assembly in 1781.

He was a very remarkable man both intellectually and physically. Colonel Wright says he was six feet four inches tall, square shouldered, a massive man of gigantic strength. He possessed a marvelous memory and had the rare intellectual gift of keen analysis. Although never an emotional or sentimental orator, he was an impressive speaker and bore down all opposition by his thorough knowledge of his subject and the array of facts he massed in argument. His courage was unquestioned and during the long and furious struggle that followed even his enemies admitted he was incorruptible. The title of colonel he acquired at an election of the militia held at Shawnee during the Pennamite War. Franklin was entirely self taught and while his language is sometimes more rugged than elegant, he was a ready writer. The mass of material he collected on every phase of Wyoming history and his journals, letters and sketches have been the storehouse from which every historian has gathered the main materials of his work.

Colonel Wright has said and his judgment is undoubtedly correct: "That of the leaders of the Connecticut settlers, he Franklin was the man of probably the largest intellect and most persevering energy." It was a most extraordinary man who could thwart Timothy Pickering and who could move and use for his purposes such men as Oliver and Alexander Wolcott and Ethan Allen.

Armstrong convinced that he had broken the spirit of the Yankees by their imprisonment went to Philadelphia and boasted to the jubilant landjobbers of his achievements; but to his astonishment he soon learned that Franklin was the leader of a united and determined band and that resistance was again renewed.

Immediately, returning with a reinforcement of fifty men he re-established himself in the fort at Wilkes-Barre.

The harsh treatment of the Wyoming settlers wrought righteous indignation throughout the country and brought the settlers many proffers of support. Some Green Mountain Boys came from Vermont where they had successfully resisted the New York landjobbers and established an independent republic. With an augmented force, Franklin besieged the Wilkes-Barre fort and surrounding houses occupied by the Pennamites. An ingenious engine of warfare was contrived and completed. It consisted of a barricade of heavy planks mounted on wheels and which completely screened those behind it. During the evening of September 29th, an attacking party commanded by Captain Swift took position behind it. Most of them were fully armed but some had firebrands. It was pushed forward toward the house occupied by Patterson which was set on fire. In escaping therefrom two Pennamites, Henderson and Root were shot.¹ Captain Swift was severely wounded. The Yankees secured themselves in the abandoned houses, and the fort was completely invested for several days. A Yankee, William Smith going to the river for water was shot and expired soon after. Nathan Stevens while peering through a loophole in one of the houses was shot through the eye and instantly killed. Franklin was wounded and several of his men severely injured. These losses and the resolute resistance of Patterson and Armstrong compelled the Yankees to abandon the siege.

While this bloody war was proceeding at Wyoming, the Pennsylvania Council of Censors acted. This was a body set up under the constitution of the Commonwealth for the purpose of censuring and correcting the misconduct of the state government. It was composed of some of the most representative and respected citizens and the illustrious Frederick A. Muhlenburg was president. On September 11th, this Council issued its manifesto, upholding the opinion of the intelligent and decent people of Pennsylvania and corroborating what has been detailed in the foregoing pages of this narrative. It recapitulated the deplorable events at Wyoming and in no uncertain terms condemned the actions of the authorities, but on account of its length only the following pertinent parts are stated: "It is much regretted

¹ *Pa. Archives*, First Series, Vol. I, pages 674, 675.

that the persons claiming lands at and near Wyoming occupied by the emigrants from Connecticut now become subjects of Pennsylvania were not left to prosecute their claims in their proper course without the intervention of the legislature, that a body of troops was enlisted after the Indian war had ceased and the civil government had been established and stationed at Wyoming for no other purpose than that of promoting the interest of the claimants under the former grants of Pennsylvania; that these troops were kept up and continued there without the license of Congress in violation of the Confederation; that they were suffered without restraint to injure and oppress the neighboring inhabitants during the last winter;—when in the meantime numbers of the soldiers and other disorderly persons in a violent and inhuman manner expelled the New England settlers from their habitations and drove them toward the Delaware through unsettled and almost impassable ways, leaving these unhappy outcasts to suffer every species of distress;—that the authority for embodying these troops was given privately and unknown to the good people of Pennsylvania;—sufficiently marks and fixes the clandestine and partial intent of this armament, no such caution having been thought necessary in defense of the northern frontier during the late war; and lastly we regard the fatal example which this transaction has set of private persons, at least equally able with their opponents to maintain their own cause, procuring the influence of the Commonwealth in their behalf and the aid of the public treasury.”²

Apprehending, the approaching storm of public opinion incited by this manifesto, and by the Act of Assembly passed September 15th restoring the settlers to their possessions,³ the landjobbers acted with celerity. The vacillating and corrupt Assembly advanced Armstrong to the position of Adjutant General of the state and authorized him to raise a sufficient force of the militia of Bucks, Berks and Northampton counties and with them to proceed to Wyoming and complete the subjugation and expulsion of the settlers. Buoyed up by this advancement and support and by the pride and vanity of a sanguine temperament, Armstrong indulged in great expectations of a successful accomplishment. But the obstacles in his way upset his expectations. President Dickinson wrote a manly and dignified letter

² *Pa. Archives*, Second Series, Vol. XVIII, page 640.

³ *Pa. Archives*, First Series, Vol. X, page 657.

to the Executive Council dissenting to Armstrong's appointment and the proposed plan of conquest.⁴

Nevertheless, the equally corrupt Council bribed by the landjobbers gold overruled him and reaffirmed the resolution to proceed and offered liberal rewards for the apprehension of eighteen principal Wyoming men. Able to control shifty politicians always eager for bribes and greedy for gold, the landjobbers were baffled by the humble and decent men composing the militia who refused to assemble and march.⁵ But undismayed and with unabated zeal to serve his masters, Armstrong hastened back to Wilkes-Barre but with only a reinforcement of forty men.⁶ No time was to be lost if the landjobbers succeeded. The harvest of the settlers' grain must be prevented and it destroyed, thus compelling the settlers to leave or perish of starvation. In order to do so Franklin's armed force must first be dispersed and the very next morning after his arrival, Armstrong assembled his army and marched to Abraham's creek in Kingston township where the Yankees were collected at the farm of Richard Brockway.

Franklin had fortified four buildings which formed a diamond and stood on rising ground north of the creek. They constituted a formidable fortification. Armstrong's men crossed the creek and screening themselves behind the trees and in the tall brush advanced and began the Battle of Brockway's Farm.⁷ The Yankees returned a spirited fire from their surrounded position and the conflict was continued for sometime. Captain Bolin, one of Armstrong's officers, in leading an assault was killed. It is known that several of the Pennamites were wounded and others may have been killed. Repulsed on every side and deeming a continuation of the struggle futile, Armstroy retreated.

Only, William Jackson of the Yankee defenders was wounded and seizing his blood-stained rifle and standing over the prostrate body of his friend, Franklin made his celebrated declaration or oath:⁸ "I will never lay down my arms until death shall arrest my hand or Patterson and Armstrong are expelled from Wyoming and the people are restored to their rights of possession,

⁴ Miner, *History of Wyoming*, page 365.

⁵ *Pa. Archives*, First Series, Vol. X, pages 679-686.

⁶ *Ibid.*, 686.

⁷ *Ibid.*, 687.

⁸ Miner, *History of Wyoming*, page 366.

and a legal trial guaranteed every citizen by the constitution, by justice and by law."

After his defeat Armstrong began the destruction and confiscation of the grain but his men were dispirited and little was accomplished. Some of his men threshing buckwheat on the Kingston flats were surprised by the Yankees and they and their horses and wagons seized. Over one hundred bushels were secured, which John Hollenback, the miller although under surveillance by a Pennamite guard clandestinely ground for Franklin's famished men.

The victory at Brockway's Farm and the rising wrath of public opinion at last cowed the politicians and the government recalled Armstrong and Patterson.⁹ On November 27th, 1784, they evacuated the fort at Wilkes-Barre and three days later Franklin burned it. The last Yankee-Pennamite War was over.

So far the material events have been related, but there are other aspects which should be noted. In answer to the petition of the Wyoming settlers reciting their sufferings, the Connecticut Assembly passed a resolution evincing sympathy and promising support. In conformance therewith, November 15, 1783, Governor Trumbull wrote President Dickinson a letter of protest.¹⁰ But the action of the Connecticut government was indifferent and rendered little if any effectual support, indicating, in the mind of Mr. Miner, the collusive attitude of that state with Pennsylvania and a corrupt bargain at Trenton.¹¹

The petition of Zebulon Butler to have the private right of soil determined under Section 9 of the Articles of Confederation was shuffled about and finally denied by a resolution of Congress passed September 21, 1785.¹²

It would appear that about the only support the New England settlers had was the Pennsylvania Council of Censors; the militiamen of the neighboring counties, who refused to wage a landjobbers war; the people of Northampton and Northumberland counties and especially Henry Antis, sheriff of Northumberland county who was almost impeached by the landjobbing Pennsylvania Assembly for befriending the Yankees and Colonel Jacob Stroud of Northampton county who advised and befriended them.

⁹ *Pa. Archives*, First Series, Vol. X, page 361.

¹⁰ *Ibid.*, Vol. VIII, pages 147, 148.

¹¹ Miner, *History of Wyoming*, page 379.

¹² *Pa. Archives*, First Series, Vol. X, page 716.

Immediately after the Decree of Trenton, the landjobbers induced a number of families, most of them from New Jersey, to locate at Wyoming. The design was to create a somewhat permanent population of Pennamites in opposition to the long settled New Englanders. Most of these intruders were transients, indifferent and irresponsible, who sheltered themselves near the fort under the protection of the soliers. After the expulsion of the Yankees, they occupied the houses and farms of the exiled Yankees. These are the Pennsylvania claimants Patterson mentions in his numerous reports.¹³ He bemoans their sufferings at the hands of the Yankees, but his letters are so vitiated by spite and malevolence and gross omission of his own misconduct, that they are entitled to little credence.

As usual in a civil war, the innocent suffer most and undoubtedly the women and children of these Pennamites were treated harshly when evicted by Franklin's men. Many of them made affidavits as did several of the Yankees, both of which are scattered through the "Miscellaneous Papers," contained in the Tenth Volume of the First Series of Pennsylvania Archives, and indicate that each suffered the same type of aggression and cruelty. When the soldiers were withdrawn and Patterson and Armstrong left, these so-called Pennsylvania claimants fled and we hear no more of them.

The war was intermittent and during periods of peace, wherever Pennamite and Yankee dwelt nearby, there was bitter animosity between them and personal indignities were committed by each. Some attempt was made to cultivate the soil, but that of the Pennamites was slight and that of the Yankees barely sufficient to sustain the depleted population. Most of the substantial buildings had been destroyed by the Indians and the enfeebled survivors were unable to restore them. Only crude log and bark huts took their place and some of these Patterson burned when he broke down the fences and filled the wells with stone. The few cattle, left unkilld by him, roamed through the unfenced fields and trampled down the sparse crops of grain. A rank growth of weeds and briars covered most of the fertile land. The poverty stricken population was probably not a third of what it had been, and those with fortitude who remained endured desolation and despair.

At the beginning of 1785, there was peace at Wyoming.

¹³ Contained in "Miscellaneous Papers," *Pa. Archives*, First Series, Vol. X.

Under the resolute leadership of Franklin, Armstrong and Patterson had been defeated and they together with the discordant element, the Pennamite settlers had been compelled to withdraw. The Yankees were again in possession of their farms. Many families who had remained away during the internecine conflict now returned, resumed their possessions and began the restoration of their ruined buildings. Hope again pervaded the afflicted community.

The political situation was, however, obscure. Pennsylvania still contended that the Decree of Trenton had not only settled the civil jurisdiction, but also the private right of soil, and persisted in the determination to settle the disputed titles according to the existing laws of the state and in her own prejudiced courts. If this policy was carried out the extinction of the Connecticut titles was assured. Under the skillful leadership of James Wilson, Congress was maneuvered into avoidance of a settlement under the Articles of Confederation, and he finally brought about the rejection of Zebulon Butler's petition for a trial of the private right of soil.

The Yankee leaders and especially Franklin clearly perceived that unless Pennsylvania changed her attitude, which was then highly improbable, their only recourse was forcible resistance and the adoption of extra legal means. The parent state Connecticut was secretly in league with Pennsylvania. Joseph Gardner and William Henry, Pennsylvania delegates to Congress wrote, from New York, February 7, 1785, to Speaker Boyd of the Assembly as follows: "By all that we can learn from the delegates of Connecticut, she has no serious intentions of prosecuting their dispute as a state, any more than merely to patronize her citizens (the Wyoming settlers) in their claims of soil and even that feebly." ¹⁴

This pretty strongly corroborates the contention that a secret and corrupt bargain was entered into that the Trenton Decree should be what it was. About this time and impelled by the political situation of the Yankees, it is probable, that Franklin hatched, in his fertile brain, the project of a separate state as the only way out. The conditions at Wyoming contributed to the development of the new state idea. Pennsylvania had not only abandoned her military occupation, but also temporarily her civil jurisdiction. Of her magistrates, only David Meade

¹⁴ *Pa. Archives*, Second Series, Vol. XVIII, page 643.

remained and he bereft of any state support was powerless to enforce his writs.¹⁵ Moreover, Sheriff Antis of Northumberland county left the writs against the Yankees unserved and for this delinquency, upon complaint of Meade, was cited by the state authorities, notwithstanding which he continued his non-interference in the Yankee part of his bailiwick.

Left to themselves, the Wyoming settlers instituted a government of their own. They assembled in town meetings in the various townships and devised ways and means. Taxes were levied and collected. Committees or courts were appointed. A regiment was organized and Franklin elected colonel.¹⁶

David Meade was a man of considerable ability. He was one of the earliest Wyoming settlers coming from New York and being a skillful surveyor laid out the first settling townships. During the war, he removed to Northumberland, as a place of greater security. After the Decree of Trenton, he returned to Wyoming as a Pennsylvania claimant and occupied a tract of fertile land below Wilkes-Barre. It may be said of him that he was the most moderate and tolerant agent of the landjobbers. Elected one of the justices of the peace, by Patterson's orders, he performed the functions of his office during the Yankee-Pennamite War sometimes with severity and at other times with moderation. During the early part of 1785, he attempted to exercise his judicial duties, but his authority was questioned and he was powerless. His presence became objectionable. Mr. Miner says:¹⁷

"Rising one morning, Mr. Meade beheld a dozen men mowing his meadow, and orders to desist or requests for explanation were equally disregarded; they went on openly and carted off his hay. A warrant was forthwith issued and several arrested on a charge of riot and brought before Justice Meade. Evasive answers to his questions were given by those whom he knew and first interrogated. "And who are you sir!" he said to one whom he was not acquainted with, "And what have you to say for yourself?" "My name," said the fellow with affected simplicity, "is Oliver Harmless and if I ever did you any good in the world I am sorry for it." A burst of laughter followed the sally, when Mason F. Alden spoke up and said; "Squire

¹⁵ *Ibid.*, 642, 650, 652, 653, 654.

¹⁶ *Ibid.*, 692.

¹⁷ Miner, *History of Wyoming*.

Meade it is you or us. Peenymites and Yankees can't live together in Wyoming. Our lines don't agree. We give you fair notice to quit and that shortly." After a futile attempt at resistance, Meade and his followers left, August 8th; and it is said he was the last Pennsylvania claimant on the Wyoming lands.¹⁸

This episode well illustrates the attitude of the Wyoming settlers in that they proposed to retain possession of their lands; that they would tolerate no Pennamite among them; would recognize the claim of no landjobber; intended to govern themselves; and were determined to maintain their position and ready to sacrifice their lives again and continue their resistance as they had successfully done for the past sixteen years. Under these conditions, I believe they were indifferent whether they were governed by the jurisdiction and laws of Pennsylvania or of a separate state. Supporting this position is the petition, dated February 20, 1785, to the Pennsylvania Assembly by a large number of Wyoming inhabitants among whom were three notable leaders, John Jenkins, John Franklin and Zebulon Butler.¹⁹ The further communications are confirmatory and emphasize the nub of the controversy, viz, the landjobber's" denial that a Connecticut title constituted the holder a freeholder; and the Yankee contention that a Pennsylvania claimant was not a freeholder but an intruder.²⁰

Until Pennsylvania abandoned support of her landjobbers and confirmed the ownership and possession of the actual settlers, there could be no peace. This she painfully and finally did in conformance with public opinion and the unwritten law and practice of all other changed jurisdictions and disputed titles. For the present she did nothing and by her future evasions and contradictions fostered another series of tumults and confusions.

With keen discernment, Franklin conceived and pursued a policy, which first fraught with failure ultimately brought Pennsylvania to reason and right. His first step was to people the disputed territory with permanent settlers and by thus greatly augmenting the population overawe Pennsylvania. Franklin was indefatigable. During early 1785, he made three trips to Connecticut, visiting Windham, Norwich, Colchester, Windsor, Hartford, Farmington, Lyme and wherever he could obtain support.

¹⁸ *Ibid.*, page 381.

¹⁹ *Pa. Archives*, First Series, Vol. VIII, page 699.

²⁰ *Pa. Archives*, Second Series, Vol. XVIII, pages 640 and 647.

William Judd of Farmington was a valuable and active coadjutor. Franklin was a charming conversationalist and a persuasive advocate. He aroused the somnolent spirits of the Susquehanna shareholders and secured many new adherents.

At a meeting of the Susquehanna Company held at Hartford, July 13th, it was voted to dispose of six hundred whole shares; but of more importance was the grant of four hundred half shares to approved men who would occupy the lands allotted them by the following October. In addition to the standing committee, the following well known men were appointed: Colonel Ebenezer Gray, Colonel Thomas Dyer, Ralph Pomeroy, Timothy Edwards, John Franklin, Ludwick Updike, Morris Sherrard, Joseph Hamilton, Zerah Beach, Zebulon Butler, Obadiah Gore and Samuel Street.²¹

Franklin returned to Wyoming, assembled the people in town meetings, explained what had been done and prepared them for action. The new state idea was in the air. The lure of cheap and fertile land attracted many half share volunteers, especially young married men without means but craving farms of their own. Soon, steady streams of Connecticut emigrants poured through New York and crossed the Delaware. They came in ox carts, horse wagons and on foot, driving their cattle and sheep and bringing whatever they possessed. They were intelligent, valorous, industrious, frugal men, the best class of pioneers; and they continued to come for years under Delaware and Susquehanna purchase claims, populating what is now Wayne, Susquehanna, Wyoming and Bradford counties. The incoming half share men were allotted farms, and soon substantial cabins and cleared fields appeared along the Tunkhannock, Mehoopany, Meshoppen and Wyalusing. The whole shares were sold in Connecticut and at Wyoming and their purchase gained the support of the more well-to-do.

Some of those who first came to the territory as Pennsylvania claimants, probably purchased Connecticut titles for their names appear in later annals as prominent and influential citizens. Those, who had remained away during the Pennamite War, returned and restored their ruined houses. Many new adventurers came in and purchased house lots and farms. There was an abundant harvest. A number of frame and painted homes were erected and in the old townships, there was every indication of growth

²¹ Miner, *History of Wyoming*, pages 319 to 385.

and prosperity. The settlers' government was functioning smoothly, taxes were collected, the roads were repaired, the public schools were reopened, and law suits were heard and determined in their courts. There was little interference by Pennsylvania.

Among the new adventurers were Dr. Joseph Hamilton of Hudson, New York and Captain Solomon Strong of Claverack, New York. The latter, it is said, interested Ethan Allen in the new state project. In April, 1786, Allen appeared at Wyoming, attired in his full regimentals. The fame, of the hero of Ticonderoga, and his imposing appearance attracted the curiosity of the people and inflamed their enthusiasm. Franklin wrote:²² "He proposed to settle among us and to bring with him a number of Green Mountain Boys and assist us in supporting and defending our rights against the Pennsylvania claimants." On May 11th, a meeting of the Susquehanna Company was held at Hartford and it was resolved: "To support and maintain their claims—and effectually justify and support their settlers therein." Colonel John Franklin, General Ethan Allen, Major John Jenkins and Colonel Zebulon Butler were appointed a committee to locate townships and regulate affairs. Franklin was appointed a clerk of the committee.²³ The first three of the committee were the avowed leaders of the new state movement; and it may be presumed the design of the company was to give a semblance of lawful authority to Allen, Franklin and Jenkins in their attempted establishment of the new state, in accordance with the methods and principles of squatter sovereignty.

Following Allen's visit, the new state was openly discussed at Wyoming, but there is little written proof of what was actually done. It is only vaguely disclosed in the letters of the projectors. However, the contemporary reports made to the Pennsylvania government, by its agents, definitely state the current talk at Wyoming and the extent of the movement. A letter of advice from Dr. Joseph Hamilton to Franklin hints of the movement and points out that in case of disaster a safe retreat would be the gore next to New York, which Pennsylvania did not claim and upon which Pennsylvania troops could not intrude; and as Tioga was within or near the gore it was advisable that all war-

²² Miner, *History of Wyoming*, page 388.

²³ *Ibid.*, page 387.

like stores and the Westmoreland records should be removed there.²⁴ This gore or strip of land, two degrees wide was definitely determined to be in New York by the establishment of the boundary line between the two states in 1789; but was a part of the Connecticut claim of land and jurisdiction and was unaffected by the Decree of Trenton and Connecticut's cession to the United States of western jurisdiction and lands. Connecticut did not relinquish its title to it until 1800. The tradition has persisted that the capital of the new state of Westmoreland was to be located near the present town of Athens, and presumably within this gore because of its safety from attack.

The Pennsylvania Assembly passed an act, December 24, 1785, granting oblivion for past offenses at Wyoming, providing the offenders entered into a recognizance to keep the peace. Pursuant thereto, William Shaw, a Northumberland magistrate came to Wyoming in April and took the bonds of one hundred and seventy eight persons; and in his report²⁵ stated: "Unluckily Col. Athen Allen came to Wyoming, who alarmed them by telling them he despised their treating with Pennsylvania, that he had formed one new state, and with one hundred Green Mountain Boys and two hundred riflemen he could make that a new State in defiance of Pennsylvania." William Montgomery wrote:²⁶ "That the party under Ethan Allen, John Franklin and Solomon Strong increases daily—Allen talks freely of a new state. Reprobrates the idea of submission to Pennsylvania." To the same effect are letters of John Van Campen.²⁷

Franklin's adherents and the Susquehanna Company had offered the olive branch to the people living on the West Branch within the limits of the Susquehanna Purchase by confirming or giving them Connecticut titles; and it was said many of them were willing to join in forming a new state.

Dr. William Hooker Smith, a prominent settler under Connecticut claim who had turned against the new state movement, or as Franklin called him, "that old traitor," wrote: "Franklin and associates brag that they can have from West Branch 1000, from Delaware 500, from Vermont 1000." ²⁸

²⁴ *Pa. Archives*, First Series, Vol. X, pages 751, 752, 753.

²⁵ *Ibid.*, page 764.

²⁶ *Ibid.*, pages 765, 766.

²⁷ *Pa. Archives*, First Series, Vol. XI, pages 26, 35.

²⁸ *Ibid.*, pages 45, 46.

But Franklin had not burned all his bridges behind him. In February, he had prepared a petition, to the Pennsylvania General Assembly, signed by four hundred and eight inhabitants, requesting the erection of a new county, which as late as September had not been acted upon. Receiving a passport, granting freedom from arrest, Franklin and his principal lieutenant, John Jenkins visited Philadelphia and appeared before the Executive Council on September 6th. They were kindly received and Franklin recited their injuries and the ill conduct of Armstrong and Boyd who were present. Dr. Franklin, President of Pennsylvania requested they visit him, which they did. They also went before the committee of the Assembly, which, however, did not assure them their land titles would be confirmed.²⁹

September 23rd, the legislature erected the county of Luzerne comprehending the disputed territory; and Franklin gave notice, of a meeting of the freeholders of the new county to be held at the house of Abel Pierce in Kingston, on October 6th, for the purpose of hearing the report of his mission and arranging for an election at the time appointed in the new county act.³⁰ Probably, because of the disastrous Pumpkin Flood on October 5th, the meeting was not held until November 6th, when it was resolved that as the act contained no provision, authorizing any person to call and hold an election, and as the time for holding the annual election, i.e. in October had expired no election could be held.³¹

Seemingly, the real reason for the reluctance to proceed with the organization of the new county was the failure of the state to confirm the titles. How much of the new state talk had been bluff and how much earnestness is problematical. Franklin's attitude at this time, apparently was, give us our land and we will submit to your jurisdiction. Perhaps, irresolution and indecision due to the conflicting sentiment at Wyoming induced this attitude. But there were more potent influences and soon the tide was running strongly against Pennsylvania and in favor of the new state.

Franklin and his friends had gone far. His honor and self respect would not permit abandonment of the half share men, and the influential persons who had lent their support. The

²⁹ *Ibid.*, pages 67, 68.

³⁰ *Ibid.*, page 66.

³¹ *Ibid.*, pages 83, 84.

failure of Pennsylvania to confirm the titles afforded a fitting excuse to cast aside the new county project, and thenceforth Franklin threw himself into the new state movement with his accustomed zeal.

At Hartford, December 27th, definite and determined action was taken.³² The meeting, of the Susquehanna Company held at the state house there on that date and of which Colonel Gad Stanley was moderator and Joel Barlow clerk, appointed the following commissioners: Major William Judd, Samuel Gray, Joel Barlow, Oliver Wolcott, Alexander Wolcott, Gad Stanley, Joseph Hamilton, Dr. Timothy Hosmore, Zebulon Butler, Nathan Denison, Obadiah Gore, John Franklin, Zerah Beach, Simon Spaulding, John Jenkins, Paul Schott, Abel Pierce, John Bartle, Peter Loop, John Bay, and Ebenezer Gay. All these were prominent and influential men. Joel Barlow was a man of genius, an author of distinction and in the days of Napoleon, American minister to France. Alexander Wolcott was a leading Connecticut politician; and Oliver Wolcott more distinguished was to become the Federalist leader of Connecticut and Secretary of the Treasury.

In the resolutions adopted there is no express mention of a new state. They proceeded by indirection and clothed their purpose in an obscurity of language, by which they evidently designed to escape displeasure and dishonor in case of failure. Yet, the implications contained in the resolutions are sufficient to justify the inference that the commissioners constituted the provisional government of the new state. They were impowered to ascertain the proprietors and determine their claims; to allot lands to new settlers; to lay out new townships; to grant lands; and to determine all controversies between actual occupants, respecting the title of lands, these powers to determine, "*whenever a form of internal government shall be established in that country.*"

The words quoted are the most significant indication of the purpose of the meeting, viz. the establishment of an internal government or new state. The final resolve, that the commissioners "are hereby fully authorized and impowered to do and transact any other matters and things which they may judge necessary for the security and protection of the settlers on said lands and for the benefit of the company of proprietors, hereby ratifying and confirming whatever said commissioners may do

³² Miner, *History of Wyoming*, page 401.

in the premises," seemingly constituted the commissioners an all powerful directory for the institution and organization of a new and permanent state.

COPY

Farmington, Jan. 11, 1786

Sir:

I was disappointed when I found my letter directed to you relative to the Susquehannah meeting failed of being sent forward from Hudson.

At our late meeting at Hartford we have made many new regulations. I have not the copy I might beg leave to refer you to Col. Franklin who will be at Wyoming soon and hath the copies at large— A court of Commissioners is appointed with plenary powers to act and to direct the Matters in the power of the company to do which numbers among many others are Col. Butler, Col. Dennison, O. Gore Esq., Col. Franklin, Major Jenkins, Capt. Schott and others— One thing we are alarmed about here and that is, it is said Col. Pickering is among you to hold an election, Should that be the case could you contrive some way to avoid his request you are completely saddled with the laws of Pennsylvania and your property all at hazard— There are so many inconsistencies in the two acts of the legislature it appears to me you may safely play him off for the present— if you want assistance we have a fair prospect of augmenting your force next Spring at least 400 that may be relied on the Susqh Compe gains friends every day and your intollerable suffering hath made you many friends in the country—and public policy seems to be in your favor—the federal government is upon its last legs and you may stand an equal chance with the rest of mankind if you are firm steady and united, preparation is made to fill up all the Granted Towns & put a man upon all rights that are now destitute of a settler, the commissioners are authorized to survey to any man that joins you two hundred acres of land and charge it to the account of any proprietor that has no man upon his rights in the settlement— Be not desponding but play the man as heretofore; providence helps them that helps themselves, please to make my compliments to Mrs. Butler and my acquaintances in the country.

I am Sir

Your humble servant

WM. JUDD

Col. Zebulon Butler
Wyoming.

CHAPTER VI

TIMOTHY PICKERING

The situation early in 1787 appears to have been somewhat as follows. The Susquehanna Company had constituted a junto and given it sufficient powers until an "internal government" was formed. This action implied the creation of a new state. But, the company being in a moribund condition its authority was merely a shadow. The real power existed only in the resolution and zeal of the individual members of the junto. It appears Oliver Wolcott had drawn a constitution of the new state and named therein the principal officers, including William Judd as governor and John Franklin as lieutenant governor. Its name was Westmoreland and presumably its military leader was Ethan Allen. No written proof of all these assumptions has been discovered; but this is not singular for conspirators do not usually incriminate themselves on paper. Spoken words are easily disclaimed but written ones hard to disprove. Inferences from what had been written, current rumors confirmed by contemporary letters and many circumstances indicate the truth of these assumptions.

Most confirmatory of these credible traditions is the following statement made to Mr. Miner by Captain Richards a highly respected citizen of Farmington, Connecticut and near neighbor of William Judd.¹ "Captain Judd showed me the draft of the Constitution. It was drawn by Oliver Wolcott. I well remember it commenced like the Declaration of Independence by setting forth a series of wrongs, or the declaration of rights, justifying the deed and then came the organization, etc." This is pretty strong circumstantial proof and if Richards had stated it to a court might have been admitted in evidence.

Another statement is that of General William Ross to the effect he was credibly informed in Connecticut that Judd was

¹ Miner, *History of Wyoming*, page 413.

to be governor and Franklin lieutenant governor.² While this is hearsay, coming from a man of the high repute of Ross, a contemporary actor in the stirring events of those days, it is entitled to confident consideration.

The foregoing circumstantial evidence, hearsay, reports to the Pennsylvania government, traditions, inferences, and conjectures, contained hereinbefore, constitute no actual proof of the new state movement. However, in the Montrose Papers³ was discovered the deposition of William Judd principal coadjutor of Franklin and traditionally designated as governor of the new commonwealth. As it has never been published, it is fully contained in the subjoined note.⁴ The following excerpt from it absolutely proves the new state movement: "They the settlers applied themselves to the Susquahh Company who appointed a large committee with Discretionary Power to protect and defend that people & the property in their lands from the inhabitants of Pennsylvania, which committee made overtures to Genl Ethan Allen to go into that country and to take command there and to take with him the disaffected inhabitants of Massachusetts who had been in arms against the government and andy others would join for the purpose and preparations were making in the power of the committee to fill the country with men from New England to keep possession of the Country by force of arms, to that end a *form of government was drawn, and preparations making for its organization & arrangement* when the Confirming Law passed in the State of Pennsylvania, which after a time put an end to foregoing measures."

DEPOSITION OF WILLIAM JUDD

"William Judd of Faromington in the County of Hartford & State of Connecticut of full age deposeth & saith, That he found among the papers of his wifes late Father after his decease, towit in the year of our Lord 1766, a certificate entitling his said Father-in Law; to a share or half share in the Susquehannah purchase so called which induced the deponent to enquire as relative thereto— That upon a full investigation, he proceeded to interest himself therein, and was knowing to a considerable number of the Proprietors of that company, preparing to make a settlement

² *Ibid.*, page 412.

³ Papers once in possession of Col. Franklin and found in an abandoned printing house at New Milford, Susquehanna County, some forty years ago; and placed with the Historical Society at Montrose and now lent to the State Historical Society.

on the waters of the Susquehannah and that they set out for that purpose in the year of our Lord one thousand seven hundred & sixty nine— That soon after the deponent heard many of them were taken and imprisoned in the Goal at Easton in the State of Pennsylvania and that a Commtee, towit Colonel Elderkin and others after that time were sent by The Susquah Company to aid & assist them, upon a trial before the Executive Court at said Easton— In the year of our Lord one thousand seven hundred & Senty (seventy) five, the deponent was appointed by the Legislature of the then Colony now State of Connecticut, Major of a Regiment of militia established at Wyoming within what was then incorporated as a Township by the name of Westmoreland & annexed to the County of Litchfield, and also a Justice of the Peace in & for said County— The deponent further saith that John Vincent, then residing at a place called the Warrior Run, near the west branch of the Susqh River was also appointed by the Legislature of Connecticut at their Session in May 1775, a Justice of the Peace for said County— In about the month of August the same year the deponent went into the Susquahh Country— That soon after his arrival there, the said Vincent & a number of others came up to Wyoming & Requested a number of People to make a settlement upon the vacant lands on sd west branch and there exercise the powers of government under the then Colony of Connecticut— That the deponent with others to the number of about eighty seven persons set off for that Country to take possession of Lands they had previously located on and near said West Branch, and arrived at said Vincents near Warriors Run on or about the Twenty 6th day of September in the year aforesd and on the 28th day of said September the deponent & his party were attacked by a large Body of militia of the State of Pensylvania said then to contain about five hundred men— That after loosing one man & having several others wounded & being surrounded on every side, we surrendered & the next day were carried to Sunbury & and all except five or six who were paroled, towit, Genl Spalding & Phineas Pierce were loaded with heavy Irons— That a few days afterwards the party that took us discharged all but myself, Judge Sluman, Genl Spalding, Mr. Pierce & a few others whose names I do not now remember, after taking away from them about Fifty Horses & & about Eighty arms—a few days after Judge Sluman & myself were sent to Philadelphia & there examined before the then Chief Justice, Judge Chew & by him required to find large Bail & for want of such Bail were committed to Goal on the fourteenth day of October, 1775 & there detained at our own cost until about the last of December following— That during our imprisonment many advantageous propositions were made to us if we would abandon the cause of the Susquahanh Company, but none of them were accepted by us—after the expiration of the last war, many complaints were made by our settlers at Wyoming of cruel & barbarous treatment from the Troops of Pensylvania sent into that Country, and after it was made known that the

Setlers had free & full posession of that Country & a refusal on the part of Connecticut any further to interfere in their behalf under an idea that the Delegates from Connecticut had engaged to the Delegates of Pensylvania that no further interference of this State should be had provided the State of Pensylvania Honorable provision for the settlers at & about Wyoming—no provision being yet made & the Setlers driven almost to despair by the depredations and cruelties of the Land Claimers under Pensylvania, the Soldiery etc. etc. they the Setlers applied themselves to the Susquahh Company who appointed a large Comtee with Discretionary Power to protect & defend that People & the property in their Lands from the Inhabitants of Pensylvania, which Comitee made overtures to Genl Ethan Allen to go into that Country & to take command there & to take with him the Disaffected Inhabitants of Massachusetts who had been in arms against the Government & and any others would join for the purpose & preparations were making in the power of that Comtee to fill the Country with men from New England to keep possession of the Country by force of Arms—to that end a form of Government was drawn & preparations making for its Organization & arrangement when the Confirmatory Law passed in the State of Pensylvania which Law after a short time put an end to the foregoing measures and the Inhabitants submitted to the Government of the State of Penylvania & placed full confidence in the provision of that Law, and that it would secure to them their property & the enjoyment of their rights and possessions in that Country— But that Law has been since repealed as I then believed it would be— That before the said Setlers submitted to the Government of Pensylvania I cautioned them against too precipitate a compliance (confidence) & to take care to have their properties well secured before they took a step which perhaps they never could take back with only great trouble

State of Connecticut; City of Hartford
Sepr 5th Day Anno Domine 1793

WILLIAM JUDD

Attached is the oath of Judd taken before Thomas Seymour Mayor of Hartford and that the deposition was taken in the case of Van Horne vs Dorrance.

Why such eminent men as the Wolcotts, Joel Barlow and others could be so infatuated is a little hard to understand, as the new state, then, had not a chance to succeed. In 1773 and 1774, the situation was different. By their expulsion of the Pennsylvania government and claimants, the Wyoming settlers had for a time determined their independence. Instead of con-

triving the miserable makeshift articles of association, and later imploring and embracing Connecticut jurisdiction, had they, then, organized a squatter government, they might have succeeded. By thus cutting loose from Connecticut, they would not have been a part any more than was Vermont, of the Thirteen States and subject to their government. The question of jurisdiction would not have been a dispute between two states, the Articles of Confederation would not have applied, no Trenton Court could have been constituted and no Trenton Decree could have ensued. It would have been, then, Pennsylvania against the Wyoming settlers organized as an independent government. Judging from the Plunket defeat in 1775 and the exhaustion of Pennsylvania during the Revolution, it seems improbable she would have been able to conquer them. Moreover, she would not have dared wage a bloody war for the possession of a few million acres of mostly sterile land. Public opinion would not have permitted it. Similarly situated New York never attempted the subjugation of Vermont. All of this is conjecture and it is easy for historians and critics to conjecture what might have been.

In 1782, Wyoming having submitted to the jurisdiction of Connecticut and being a county of that state, she was bound by the Articles of Confederation and Congress could and did determine the jurisdiction. Consequently any attempt, in 1787, to erect the new state of Westmoreland was an act of rebellion against Pennsylvania. By its location of new townships, and allotment of land to favored individuals, after the Decree of Trenton, the Susquehanna Company had descended from its original purpose the acquisition and distribution of land to actual settlers into a land jobbing concern. The support of Ethan Allen and other outsiders was secured by the grants of extensive tracts in these new townships; and they had no other interest in the new state than the exploitation of those lands for private gain.

The attitude of the actual settlers was uncertain. The rising importance of Franklin and his associates aroused the envy of the old Wyoming leaders. Franklin and his followers contended that the Susquehanna Company still owned and possessed all the land included in the Indian purchase and that by the Decree of Trenton, Pennsylvania acquired no ownership thereof. The settlers in the Seventeen Townships resented this extreme claim, because they conceived it imperiled the confirmation by Penn-

sylvania of their own titles which they ultimately expected. The half share men living without the Seventeen Townships had no such expectation. Their hope was the creation of a new state. These adverse interests begat two hostile factions, the Old Settlers Party and the Half Share Men. These dissensions gave Pennsylvania her opportunity and the threat of a new state brought her to a sense of right and reason.

Timothy Pickering, a Massachusetts man, then residing in Philadelphia and there endeavoring to retrieve his fallen fortunes by trade and land exploitation, late in the summer of 1786, visited Wyoming, while on his way to inspect a tract of land, which he had purchased near Starruca in what is now Susquehanna county. He learned, that the older inhabitants settled on the better farms in the Wyoming Valley would be satisfied to submit to Pennsylvania jurisdiction if quieted in their possessions obtained before the Decree of Trenton, but, that the Half Share Men and a considerable number of the old share holders led by Franklin and Jenkins contended for the whole Susquehanna Purchase.³

Upon his return to Philadelphia, he was visited by James Wilson, who eagerly inquired of the temper and desires of the Connecticut settlers. Pickering says: "I informed him that they were entirely satisfied with the Constitution of Pennsylvania and were ready to submit to the government provided they could be quieted in the possession of their farms."⁴ It was perhaps, then, that Mr. Wilson suggested that Colonel Pickering undertake the organization of the new county of Luzerne. The choice was wisely made. Timothy Pickering being a Yankee thoroughly understood the character of the people with whom he had to deal. Born at Salem, Massachusetts, he was educated at Harvard, and studied law but never actively engaged in the practice of that profession. He was clerk of the Essex County Court for many years and at the outbreak of the Revolution commanded a regiment of Minute Men. He served during the war as adjutant general and quartermaster general of the Continental Army and became an intimate friend of Washington. He was secretary of the Board of War, until the close of the Revolution when he engaged in business in Philadelphia in which he was not successful; and at the time Mr. Wilson made his offer was a

³ *Pickering's Journal, Upham's Life of Pickering*, Vol. 2, page 258.

⁴ *Ibid.*, page 262.

politician out of a job. He came to Wyoming in the winter of 1787 and conducted the February election at which county officers were chosen. Mr. Pickering represented Luzerne county in the Pennsylvania convention of 1787 which ratified the Federal Constitution and in the convention of 1789-90 which adopted the state constitution. He resided in Wilkes-Barre until 1791 when he was appointed the first postmaster general of the United States. He was secretary of war in 1795 and in the same year succeeded Edmund Randolph as secretary of state, which position he continued to occupy under President Adams until 1800. He was chief lieutenant of Alexander Hamilton and was United States Senator from Massachusetts for eight years and ended his political career as a member of the House of Representatives. Thus a man of superior ability and great attainments was chosen to destroy the Fourteenth Commonwealth.

Pickering in a letter to his son said, that the next he heard on the subject of the new county was from Dr. Benjamin Rush, who told him he would be appointed to all the county officers if he would accept them; and that he later told Mr. Wilson he would accept, "provided I might assure the Connecticut settlers, that the Legislature would quiet them in their possessions."⁵ At about the same time the act was signed, September 25, 1786, erecting Luzerne county, Pickering made formal application for appointment to the offices of the new county. He was duly appointed, commissioned and formally accepted by taking the oath of office.

December 27th, the Legislature passed a supplemental act appointing Colonel Timothy Pickering, Colonel Zebulon Butler and Colonel John Franklin, commissioners to notify the electors of Luzerne county of an election to be held February 1, 1787; and providing for the choice of councilor, member of the Assembly, sheriff, coroner, three commissioners and justices of the peace. Pickering and Butler signed the notice of election but Franklin did not and openly opposed the election and submission to Pennsylvania authority. To combat his opposition, Pickering spent the most of January at Wyoming, holding meetings in the various towns, and by positive promises that Pennsylvania would confirm their titles persuaded a considerable number to participate in the election.⁶ Pickering secured the support of the

⁵ *Ibid.*, 262, 263.

⁶ *Ibid.*, page 263.

Butlers, Nathan Denison, the Hollenbacks, Rosses, Gores, Careys, Nesbitts and others. These were the old settlers who possessed the choice lands and whose spirits were ruffled by the rising leadership of Franklin. These constituted the "Old Settlers Party." Those who followed Franklin were: the Jenkinses, Slocums, Satterlee, Dudley and most of the settlers up the river who were called "Wild Yankees" or "Half Share Men." They insisted that confirmation of the titles should precede and not follow complete submission to the power of the state.⁷

The election was duly held at the house of Zebulon Butler in Wilkes-Barre, February 1st and only two hundred twenty two votes were cast, a considerable number of which were newcomers. John Franklin against his desire was elected a member of the Assembly, and the others elected were: Nathan Denison, member of the Executive Council, Lord Butler, sheriff, Nathan Carey, coroner, Jonah Rogers, Christopher Hurlburt, and Nathan Kingsley, commissioners.

Soon after the election, Pickering drew a petition to the Legislature for a confirmation of the Connecticut titles acquired before the Decree of Trenton; which was signed by a considerable number of owners and duly presented to the Assembly.⁸ Pursuant thereto, on March 8, 1787, there was enacted the Confirming Law, providing for confirmation of all Connecticut titles acquired before the Decree of Trenton, and the conveyance by the Commonwealth to the Pennsylvania claimants unoccupied lands of equivalent value. Peter Muhlenburg, Timothy Pickering and Joseph Montgomery were appointed commissioners to administer the procedure fully set forth in the act.⁹

During the summer of 1787, Pickering completed the purchase of Connecticut titles to several hundred acres of land in Wilkes-Barre township, which he immediately proceeded to improve and plant. He also began the erection of a large, substantial frame residence, which until a few years ago stood on South Main Street in the City of Wilkes-Barre. He thus evinced his confidence that Pennsylvania would fully confirm the Connecticut titles. Although he was deceived by the later course of Pennsylvania, no one has imputed bad faith to Pickering.

In the meantime, Franklin and the new state people were

⁷ Miner, *History of Wyoming*, page 407.

⁸ Upham, *Life of Pickering*, Vol. 2, page 266.

⁹ Complete act in *Pa. Archives*, Second Series, Vol. XVIII, page 660

not idle. An inflammatory manifesto signed by William Judd was printed and circulated at Wyoming. Franklin petitioned the Connecticut legislature to move Congress for a reopening of the Trenton decision on the ground that Pennsylvania had at the time the Indian deed and other important papers, which evidence its agents suppressed. The lower house acted favorably but it was negatived in the upper chamber. The new state people were vainly struggling to escape the coils then encircling them.

In April and May, elections were held and justices of the peace were chosen. Under Pennsylvania law these justices were also commissioned judges of the Court of Common Pleas. In connection with these elections a great public meeting was held within the shadow of the crumbling palisades of old Forty Fort, whence their little army had marched that terrible day in 1778. Patriotic memories must have hearkened back to the prosperous and contented time before the savage foe and bitter Pennamite overcame them; back to the time when substantial buildings sheltered their families and herds of cattle and flocks of sheep; when the well tilled fertile lowlands yielded abundant crops of wheat and corn; when the revered New England preachers every Sabbath day exhorted them with stern admonitions; and when their children were blessed with a free public school in every district. Now poverty stricken, they were a forlorn and disunited people. The curse of ten years warfare had afflicted them with woe and desolation. Most of their buildings had not been restored and many families existed in the crudest huts of bark and logs. The unfenced fields were trampled down by roving cattle and swine. Carpenters and blacksmiths, shoemakers and saddlers were unemployed. Turmoil and confusion had bereft them of industry and thrift. Their moral vigor was spent and a discontented and distracted people they knew not whither to go. Their leaders were somewhat distrusted. Pickering was a fair promisor, but an adroit and artful man. Franklin was much admired because of his courage and incorruptibility, but a little doubted because of his bold daring and rebellious designs. Following Pickering were the more prosperous and fortunate ones bent on preserving their private wealth and behind Franklin were those without faith in Pennsylvania and all the half share men.

Such were the sentiments when James Sutton, an old and respected settler mounted the improvised platform as the chosen moderator of the assembled throng. Pickering besought them to

accept the benefits of the orderly government Luzerne county afforded them and pledged his sacred honor, that Pennsylvania would faithfully perform the promises she had made them. Then old Stephen Gardner, probably representing the sentiments of most of the hearers uprose and like an ancient patriarch admonished him: "Your lips speak fair; but Oh' that there was a window in that breast that we might see your heart."

Colonel John Jenkins replied to Pickering and vigorously asserted: "What security have we, that if we comply and put ourselves in your power, the state won't repeal the law and deal as treacherously as in the case of Armstrong."¹⁰ More important, than the other addresses, was what Franklin said. We have no written report of it; and only the brief notes Pickering impressed with the power of the speech made at the time viz, "that he Franklin desired peace, but that the commissioners appointed to administer the confirming law were not the choice of the people and not they but a Federal Court ought to determine the title to the lands; and that the petition for the confirming law was not the voice of the people and calculated to deceive."

Viewed dispassionately, what he said as noted by Pickering was true and irresistible. His powerful and persuasive argument swayed the multitude and no longer able to endure the drift of sentiment, Mathias Hollenback, a Pickering man, violently assaulted Franklin with the butt of his riding whip. Immediately the meeting, hitherto an orderly one, dissolved in tumult and confusion.¹¹

Sutton, the moderator was carried off. A rush was made for the woods for switches and clubs. No doubt many were inspirited by the liquor they had consumed for no political meeting was then held without a sufficiency of applejack and rum. Brother fought brother that day not with knives and guns but in the good old fashioned English way with clubs and fists. They pommelled each other face to face and blackened the eyes of their prostrate adversaries. But it is fair to say, their frenzy did not reach the killing stage, for they only clubbed the buttocks and not the heads of their foes. We do not know how Pickering fared, but we may presume he got away for he was always a cautious warrior. Poor Franklin was in the midst of the fray, and the melee over was seen making for a pool of water with

¹⁰ *Ibid.*, 666.

¹¹ Miner, *History of Wyoming*, pages 410, 411, 412.

blood streaming from a pommelled nose and lacerated scalp. Somehow a rump got together and in a disorderly manner resolved to support Pickering.

Six justices and Common Pleas judges having been duly elected and commissioned, the first Luzerne County Court was organized, May 27, 1787 at the house of Zebulon Butler, by Colonel Pickering. The attending judges were William Hooker Smith, Benjamin Carpenter and James Nesbitt. Four attorneys were admitted, Rosewell Welles, Ebenezer Bowman, Putnam Catlin and William Nicholls.¹²

Little interest seems to have been manifested, and this first session of the court was not largely attended; but perhaps, among the spectators was one a Franklin spy, seen peering through an open window upon the scene within. He wore a coonskin cap and a loose hunting shirt, and his rifle rested carelessly on his arm. He was a typical frontiersman. His figure was tall and spare. Of pleasing manner, a cynical smile lightened his dark featured face. Mark him well for you will hear more of him. It was Gideon Dudley, the daring young leader of a bold band of men.

It appears, that about this time, one Livingston and others of New York hatched up a scheme to create a new state from parts of Massachusetts, New York and Pennsylvania, it is said with the connivance of the British government. Nothing came of this foolish design.

The situation of Franklin was now desperate and doubtful. He had successfully resisted Patterson and Armstrong and driven them away. He had aroused the dwindling spirits of the Susquehanna Company shareholders to renewed activity; and had incited the migration of the resolute half share men, whose settlement in the upper Susquehanna valley had greatly augmented the population and badly scared Pennsylvania. By his importunity, Ethan Allen, the Wolcotts, Barlow and others had lent their influential support to the new state project. Yielding to these threats against her territory and sovereignty, Pennsylvania had granted local self government and confirmed the Connecticut titles in the Seventeen Townships. These concessions he had secured for the old settlers, but his policy had alienated the support of many of them, who conceived it imperiled their

¹² Minute Book No. 1 of Court of Quarter Sessions in Court House at Wilkes-Barre.

future security. Franklin had now only the assistance of a disunited people, but he could not compromise, for if he turned back, he must abandon the influential men behind him and the poor half share men, and this course his honor would not permit.

Apparently undismayed, Franklin travelled from settlement to settlement. At the lonely cabins in the forest where he lingered at night, he fascinated his hearers with tales of the Revolution and the wrongs the people had endured. In his charming way, he persuasively contended that an impartial court constituted by Congress would award the whole Indian purchase to them and thus secure the rights, not only of the half share men, but the old settlers as well. He blamed those who followed Pickering for their desertion of the half share men whose settlement had forced Pennsylvania to do what she had done. And he beseeched his hearers never to submit to the jurisdiction of Pennsylvania until the land titles were irrevocably confirmed by a tribunal created by Congress.

We do not know how much of the new state movement was in the background of his argument, but may assume he was wise enough to allude to it only by indirection. He maintained that the civil disobedience he preached was not treason against Pennsylvania, because he had not taken her oath of allegiance and submitted to her jurisdiction. Being an alien, settled in a territory illegally awarded to her by the corrupt court at Trenton, he was not a traitor to her but only an alien enemy and should be considered and treated as such.

The removal of so dangerous a man was determined upon. We are not informed how the scheme was contrived, but Pickering must have connived at it although he evasively wrote: "Evidence having been communicated (I know not by whom) to Chief Justice McKean, he issued his warrant for the arrest of Franklin on a charge of treason against the state." The warrant was placed in the hands of Captain Craig of Northampton county, who took with him, Captain Lawrence Erbe, Captain Brady, Lieutenant McCormick, one Stevenson and two others, ex-soldiers of the Revolution. They came to Wilkes-Barre, disguising themselves as would be purchasers of land, communicated with Pickering and bided their time.¹³ Their instructions were to consult Pickering and take the best methods to apprehend Franklin,

¹³ *Autobiography of Charles Biddle*, page 221.

John Jenkins, Zerah Beach, and John McKinstry and "If you take Franklin at Wilkes-Barre do not proceed any further or run no risque of losing him by endeavoring to apprehend the others."¹⁴

About 2 o'clock in the afternoon of October 2nd, Franklin having just come up from his home in Huntington was standing on the bank of the river near the Yarrington ferry, when he was summoned to the Red Tavern across the way. In the meantime, Craig and his men had sneaked up behind and as he turned toward the tavern seized him. With great strength he beat them off and unassisted was match for them all. He drew his pistol and shot at one of them but missed his mark. By such furious resistance he baffled them and might have escaped had not one of his assailants cast a noose over his head which drawn taut pinioned his arms. He was then bound fast by the efforts of four of them, and thus overborne he shouted: "Help! Help! William Slocum. Where is William Slocum?" Slocum being absent, his resolute wife seized his gun and rushed to the street, crying: "William! Who will call William? Is there no man here? Will nobody rescue him?" But no one came. Blood streaming from his nose blinded him. He was placed astride a horse, but with tremendous effort he threw himself off. Again it was tried and failed. The third time he threw himself to the ground. Then Pickering interposed, ran from his house to the scene and pointed his loaded pistol at him and threatened. The others mounted the captive on the horse again and Pickering's servant tied his legs under its belly. Craig and his men mounted their steeds and with one of them holding him fast on either side galloped off on the mountain road.

The new state was dead.

Franklin was taken to Philadelphia and in chains was confined in the dungeon of the city jail.

Pickering later wrote:¹⁵ "But this open aid given by me and my servants in securing Franklin exposed me to the vengeful resentments of his adherents. I would have avoided this step, if I had not believed the welfare of the good people of the county and the public peace depended on securing the person of this dangerous man."

Warned by the rising sentiment against him, Pickering, dur-

¹⁴ *Pa. Archives*, First Series, Vol. 11, page 189.

¹⁵ Upham's *Life of Pickering*, Vol. 2, page 303.

ing the afternoon slipped out of the back of his house and hid in the nearby woods. At nightfall he cautiously returned and found his house guarded by his friends under the leadership of Colonel Butler. Sentinels were placed on the river bank and while he was eating supper, one of them warned him that a large force was coming over the river in boats from the Kingston shore. Taking his loaded pistols and a few biscuits, he fled to an open field near the foot of the mountains. There he was joined by Griffith Evans, clerk of the commissioners, who lodged at his house. The shouts of the insurgents apprised them his house was surrounded, and the noise suddenly ceasing, they conjectured its few defenders had surrendered. This was true and Captain John Swift and Captain Satterlee who commanded the rioters searched the dwelling but Mrs. Pickering and the inmates suffered no harm, except that of fright occasioned by the turmoil.

Concluding further search would be made for them, Pickering and Evans left the field and slept that night in the dense woods on the side of the Wilkes-Barre mountain. In the morning, they found themselves near a cabin occupied by a German whose daughter was employed as a maid by Mrs. Pickering, Pickering sent Evans to the house to request the German to go to Wilkes-Barre, and if possible see Mrs. Pickering and ascertain if it was safe to return. The German came back and reported, the excitement was intense, that the whole valley was aroused and great bodily harm would be done Pickering if he was captured. It was then determined to proceed to Philadelphia.

Not to loose their way they devised an expedient. Cautiously approaching the sight of the road, they darted back into the woods and followed a direction as nearly parallel as they could determine to the course of the road. This plan was pursued until dark. They then were nearing Bear Creek and it was decided to lie down and sleep until the rising of the moon, at about 2 o'clock in the morning. Pickering anticipated guards had been placed at the ford of the creek to intercept them, but as they were not thought to be more than three in number, it was determined to kill them. With drawn pistols, they crept through the brush, each seeking his man. As Pickering had surmised, a detachment of the insurgents had been dispatched there soon after their flight, but tiring of their task and believing the fugitives had eluded them, the detachment had abandoned their vigil. Proceeding the rest of the night without incident, at daybreak, they

came to the first house on the road about twenty miles from Wilkes-Barre, where they had breakfast, the first they had eaten since they fled. A few miles beyond they reached the settlements where horses were procurd and they continued their journey to Philadelphia.¹⁶

Mrs. Pickering was an intrepid woman and although in the midst of enemies remained at Wilkes-Barre overseeing the harvest and the completion of the house. For safety she sent her children, except the infant, to Philadelphia. During his exile, Pickering was elected the Luzerne county delegate to the convention which in December ratified the Federal Constitution. His many letters to his wife manifest his great anxiety and desire to return, but his friends dissuaded him from attempting it. However, in January 1788 he came back to Wilkes-Barre and soon after occupied his new house. Thenceforth, there was no open hostility and he pursued his official duties and farming business undisturbed. But there were alarming rumors;¹⁷ and although Pickering considered it a threat, John Jenkins warned him that there was danger and he might be seized.

The refusal to release Franklin on bail, although a large amount was offered, had rekindled the animosity of his followers. Late in June, Gideon Dudley was in the vicinity of Meshoppen assembling his Wild Yankee Boys.¹⁸ Inured to the hardships and dangers of the frontier, they were a band of bold and daring men. Many of them were skillful hunters and all since childhood trained riflemen. Adepts in the tactics of border warfare, they were neither ruffians nor criminals but in moral character average young men of the frontier. Sincerely devoted to Franklin, they bitterly resented his cruel treatment in the Philadelphia jail and they attributed it to Pickering. Perhaps, they were actuated by the counsel and incitement of older men, as was charged at the time.

Dudley with his men floated down the Susquehanna augmenting his force as he advanced, and the evening of June 26th silently approached Wilkes-Barre. They disguised themselves with blackened faces and tied red handkerchiefs around their necks as the distinguishing insignia of the Wild Yankee Boys. When all was dark in the scattered dwellings, they quietly made

¹⁶ *Ibid.*, pages 303 to 305.

¹⁷ Deposition of Andrew Ellicott in *Pa. Archives*, First Series, Vol. 11, page 307.

¹⁸ Deposition of Garrett Smith, *Pa. Archives*, First Series, Vol. 11, page 371.

their way to the Pickering house. It was then about 11 o'clock. The house was surrounded and Gideon Dudley with a few trusted ones entered the hall through the unlocked front door and burst open the room on the first floor where Pickering slept. Aroused by the noise, he shouted: Whose there? "Get up," Dudley said. "Don't strike. I have an infant on my arm," Pickering implored. Putting the child aside, he rolled out of bed and began to dress. Mrs. Pickering fled to the kitchen and partly dressed returned with a lighted candle, which disclosed the room filled with disguised men armed with hatchets and guns. No violence was offered either of them.

"Take a blanket. You'll need it where we go," Dudley advised. Pickering's arms were pinioned to his side, and he was tied to one of them. In perfect silence, they made their way from among the scattered houses of the village. At Pittston, ten miles up the river, they halted at a tavern, drank some whiskey and in twenty minutes were on their way again. One of them said to Pickering "Now if you will only write two or three lines to the Executive Council, they will discharge Colonel Franklin and then we will release you." To this he replied: "The Executive Council better understand their duty than to discharge a traitor to procure the release of an innocent man." A voice exclaimed: "Damn him. Why don't you tomahawk him?"

They crossed the Lackawanna river in a boat, but as the water was low, it grounded before they reached the shore. Pickering was about to step out, but one of them with a pack on his back shouted "Stop!" and went ashore, threw down his pack, waded to the boat and carried Pickering on his back to the bank of the stream. When day dawned, they had reached the ferry at what is now Ransom and crossed the river in a scow to the western shore. Thence they marched through the dense woods out of sight of the river until they came to a cabin on the bank of the Susquehanna where Pickering was provided with a good meal, the first he had eaten since the preceding night.

Meanwhile, there was a great commotion in Wilkes-Barre. As soon as the guard was gone from the Pickering house, the inmates gave the alarm and the sleeping town was aroused. At daybreak, the leading men got together and with restored wits summoned the nearby militia. During the forenoon, Captain John Paul Schott assembled his troop of horse and started up the river in pursuit. The next day or so, he was followed by

the Hanover company under Captain Roasel Franklin, the Wilkes-Barre company commanded by Captain William Ross and the Kingston company led by Major Lawrence Myers. All were sworn in as a posse under the command of Sheriff Butler. When they arrived at Osterhouts below Tunkhannock, they espied three persons in a canoe and ordered them to surrender. On their refusal the soldiers fled, two of the occupants jumped into the river, swam to the western shore and fled. The other one rowed the canoe to the shore and being interrogated by the sheriff. "Who are you and who were those in the boat?" boldly responded: "None of your business." "Tell me who you are and where you are going?" "I won't," he impudently replied, "You are all a pack of rascals, not to let honest men go to the mill in their boat, but they must be shot at like wolves." Information from him not being obtained, he was released. It was later ascertained, he was fourteen year old Aaron Kilburn whose brothers were with Dudley.

While Pickering was resting in the cabin, a messenger arrived with the news, that the militia was coming. It was Schott and his dragoons, who approached and when seven miles away retired. "Get up," the guard commanded Pickering. They took him to a secluded glen behind a hill, where they spent the night and were beset by a heavy thunder storm which drenched them. In the morning, a man leading a horse was descried on the opposite shore. One of them observed: "There goes Major Jenkins a damned slinking" Pickering comments, "that having led them into the scrape, Jenkins deserted them and was going to York state where he remained surveying lands until tranquility was restored."

Later when about to cross to the eastern shore of the Susquehanna, Gideon Dudley came up with a pair of handcuffs to manacle him. Pickering protested: "I should have a chance to save my life by swimming if the canoe upsets." Mr. Earle, father of two of the party interposed and said: "There is no danger of an escape and you should not put them on him." Following this advice, he desisted. After crossing, a leader and four men were selected as Pickering's guard and the others marched on. Their leader, a skillful hunter shot a fawn. A fire was kindled. The hunter took the first cut. Then sharpened a small stick at both ends running one into a slice of the fawn and setting the other end in the ground, the top of the stick bending so

near the fire as to broil the flesh. Pickering says: "I observed the hunter tending his stick with great nicety and sprinkling it with a little sauce. As soon as it was done, he with a very good grace presented it to me." A cabin was built of boughs and they remained in this camp about a week. From there they removed to a secluded valley about three miles from the river, and a chain about six feet long and having an iron band was produced and their leader said: "Colonel Franklin has been put in irons in the Philadelphia jail, and although it is disagreeable to us our great men require us to put them on you." The band was locked on his ankle and the other end of the chain was fastened to a log by a staple. They were in this camp about three days, when one morning firing was heard at a distance, and it was soon learned that Gideon Dudley and his men had had an encounter near Meshoppen creek with the militia, in which Dudley had been shot through the hand and Captain Ross mortally wounded.¹⁹

To avoid discovery, the next night they crossed to the west side of the river at Black Walnut fifty four miles from Wilkes-Barre and made their way through dense darkness to Kilbourn's house where they lodged that night. From there they moved about four miles from the river and this was their last station. Pickering says: "On the 15th of July, Gideon Dudley with two others came out to our camp and said to me: "Don't you wish to be at liberty?" "To be sure I do" was my reply. After a little pause Dudley again accosted me; "What will you do for us if we set you at liberty?" What do you want me to do for you?" was my reply. "Will you intercede for Colonel Franklin's pardon?" "No. I will not. . . ." One of them asked me "Will you intercede for our pardon?" After a momentary pause, I answered: "While I have been in your hands, you have told me of your great men and that you have been acting in obedience to their orders. By them you have been deceived. Give me their names and I have no doubt of obtaining your pardon." This they would not do. "Stop," said I and knock off this chain." They immediately took off the chain, that I had carried for ten days."

Pickering after the first night must have felt assured no bodily injury would be done him. He complains of his food

¹⁹ Ross was taken to Wilkes-Barre and subsequently recovered.

mostly corn bread and a limited supply of salt pork; but it was the best they could afford and he says they equally shared it with him. They allowed him to write to his wife and arrange to have clothing and supplies sent to Tunkhannock. He was permitted to keep a daily diary noting therein their daily conversations mostly about their farming methods and the customs of their country. They evidently won his friendly feeling and his conclusion seems that they were only the deluded followers of cunning leaders.

On the 16th of July, he was taken to the headquarters of Gideon Dudley who again inquired: "Will you intercede for Colonel Franklin's pardon?" "I will answer no further, till I am set at liberty," he replied. Thence he was taken to Kilburn's house, where he was provided with razor and soap to shave, a clean shirt and a pair of stockings and told he was free. Pickering had been a prisoner nineteen days. While a chicken dinner was being prepared, they repeated their request that he intercede for Franklin's pardon, which Pickering stoutly refused, but assured them he would petition for their own pardon if they would give him the names of their great men. To this Gideon Dudley indignantly declared: "Whoever does it ought to go to hell and be damned everlastingly." Then they requested he prepare a petition for them praying their pardon and send it to the Executive Council. "With this," Pickering says, "Underserving as they were I complied."

He was taken down the river in a boat and in the evening arrived at the home of Zebulon Marcy at Tunkhannock, where he found his bundle of clothing, and where he lodged. The next day with a man from Pittston and a Yankee Boy, named Tuttle, who accompanied him to Wilkes-Barre, he floated down the river and toward evening, unexpectedly joined his wife and family.²⁰

²⁰ *Life of Pickering*, Vol. 2, pages 381 to 391; Miner, *History of Wyoming*, chapter 28.

CHAPTER VII

CONCLUSION

The abduction of Pickering was a senseless move and whoever contrived it committed a grave and foolish crime. It was the last desperate action of devoted and deluded men. Some days before he released Pickering, Gideon Dudley must have realized that the scheme had failed and that he and his followers faced serious consequences. Pursued by the militia under Captain Roasel Franklin, Dudley retreated up the river, and July 26th an engagement was fought,¹ near Wysock in which Joseph Dudley was mortally wounded and subsequently died in the jail at Wilkes-Barre whence he was removed. The Wild Yankee Boys were dispersed and those who escaped fled and hid themselves in the woods of western New York.

Immediately after the abduction information of Pickering's capture was transmitted from Wilkes-Barre to the Executive Council,² which issued a proclamation offering a reward of \$300 for the capture of John Jenkins and Jabez Hyde; \$100 for the apprehension of Daniel Earle, Benjamin Earle, Cady, Wilkes Jenkins, Joseph Dudley, Gideon Dudley, David Woodward, Joel Whitcomb, Timothy Kilborne, and Thomas Kinney.³ These rewards excited the zeal of the pursuing militia. The following were indicted in the Luzerne County Court: Zebulon Cady, Solomon Earl, Wilkes Jenkins, Ira Manville, Benedict Saterlee, John Hyde, David Woodward, Gideon Dudley, Joseph Dudley, John Whitcomb, Daniel Taylor, Timothy Kilborn, Frederick Budd, Noah Phelps, Nathan Abbott, William Carney, and Aaron Kilborn, all charged with riot and assault and battery. The following were indicted for assisting the rioters: Martin Dudley, Joseph Kilborn, Thomas Kinney, Nathan Abbott, Ephraim Tyler, Stephen Jenkins, Darius Parks, and John Jenkins.⁴

¹ *Pa. Archives*, First Series, Vol. 11, page 559.

² *Colonial Records*, Vol. XV, page 488.

³ *Ibid.*, page 489.

Some of these, viz: Joseph Kilborn, Darius Parks, Benjamin Abbott, Nathan Abbott, Zebulon Cady, Aaron Kilborn, and Stephen Jenkins appear to have been convicted and sentenced to brief imprisonments and fines.⁵ According to Mr. Miner all were soon released or escaped, except Stephen Jenkins who refused to leave the jail until pardoned.

The harsh treatment accorded Franklin in the Philadelphia jail seriously undermined his health and he was smitten with a serious fever. All efforts to obtain his release on bail failed, and September 17, 1788, he addressed a letter to George Logan, Peter Muhlenburg, and John P. Schott, a committee of the Assembly, wherein he set forth the failure of his friends, who furnished him bail, to have him released, the denial of a trial, the serious impairment of his health, and the express avowal that had he been liberated on bail, "I was fully determined to return to Wyoming and use my influence in quieting the disturbances at that place if any there should be and to prepare myself to take my trial when called."⁶

In November accompanied by his counsel, Charles Biddle and George Clymer, eminent Philadelphia lawyers, he was brought to Wilkes-Barre where he was indicted by the grand jury for treason. The case against him was continued and Chief Justice McKean would not admit him to bail, but remanded him to the Easton jail. From there he was subsequently removed to the Philadelphia jail where he remained until June 4, 1789 at about which time, it appears from a payment to John Reynolds the jailer, that he was again taken to the Easton jail.⁷ Sometime thereafter he was released by the Supreme Court. He was never tried and it is improbable that the state ever had sufficient evidence to obtain his conviction for treason. He was detained in prison, solely, to wear him out and render him impotent to harm the policy of the government, and upon the insistency of Timothy Pickering who greatly feared him. On January 9, 1792, Governor Mifflin granted him a full pardon.⁸ It will be observed that at that time Pickering had severed his connection with Wyoming affairs and soon thereafter gave up his residence at Wilkes-Barre.

⁵ *Pa. Archives*, First Series, Vol. XV, pages 419, 420, 421, 424.

⁶ *Miner, History of Wyoming*, page 432.

⁷ *Col. Recs.*, XVI, pages 95 to 102.

⁸ *Pa. Archives*, First Series, Vol. XII, pages 104, 105.

A pleased and grateful people, the same year, overwhelmingly elected John Franklin, high sheriff of Luzerne county and Governor Mifflin duly commissioned the old traitor the chief executive officer of the territory of the Fourteenth Commonwealth where for ten more years he was the dominant figure.⁹ It was not Timothy Pickering but John Franklin who largely brought about final settlement of the disputed titles, which we will now consider.

Peter Muhlenburg, Timothy Pickering and Joseph Montgomery were appointed commissioners to administer the Confirming Act. Muhlenburg and Montgomery refused to serve, and Stephen Balliott and Daniel Heister were substituted in their places. Heister soon resigned and William Montgomery succeeded him. The commission as finally constituted appointed Griffith Evans secretary, held several meetings and examined some claims;¹⁰ but they had accomplished little when the Legislature, March 29, 1788, ended their activities by the suspension of the act.¹¹ This suspension was accomplished despite the vigorous opposition of Pickering and his friends and against the votes of all members of the Assembly from Philadelphia. On April 1, 1790, in opposition to the most enlightened and eminent members, the Legislature repealed the Confirming Act. William Rawle, a distinguished Philadelphia lawyer wrote a vigorous protest to the report of the committee which recommended the repeal; and William Lewis, considered the ablest lawyer of Pennsylvania, summed up the objections to repeal with an irresistible argument.¹²

Nevertheless, the bribery and boodle of the land jobbers prevailed and the repeal passed by a large majority, staining the government of Pennsylvania with a perfidious act of deception and dishonor. John Jenkins' prophetic declaration that Pennsylvania would repeal the act when she had obtained submission to her government had come true; but no stigma of a broken promise should be attached to Timothy Pickering. He was an honest man, who had vainly struggled to fulfill his promise but was ignobly deserted and deceived by the incomprehensible government of Pennsylvania. Almost a broken man, he laments

⁹ *Ibid.*, page 105.

¹⁰ *Pa. Archives*, Second Series, Vol. XVIII, pages 667 to 671.

¹¹ *Ibid.*, pages 675 to 677.

¹² *Ibid.*

his situation in a letter written July 28, 1788:¹³ "My coming hither was not originally an affair of my own seeking. It was proposed to me and it was urged upon me on the ground of probability that I might be the instrument of giving peace and satisfaction to their settlement and save the state from a great expense of blood and money in a civil war. . . . I have much reason to repent the confidence with which I engaged in this undertaking. What have been the repeated distresses of myself and family and what losses I must have sustained, Government can easily imagine." Again writing, April 6, 1790,¹⁴ he states: "My reward from the Legislature for my services is the repeal of the law by which the disputed lands were confirmed to the Connecticut claimants and under the faith of which I purchased a farm and erected the necessary buildings; a law to which I pledged myself to those people that the legislature would not repeal."

With broken finances, a paltry income from the county fees, and practically repudiated by a government he had trusted, Pickering was a discouraged man. He sought public employment elsewhere, from both Pennsylvania and the United States. President Washington who was his steadfast friend appointed him commissioner to treat with the Six Nation Indians. The first treaty was held at Tioga Point in November, 1790; and the second appointed for Painted Post but transferred to Newtown Point in June and July 1791. In August, 1791, Pickering was appointed the first postmaster general of the United States, and he removed his family from Wilkes-Barre in May, 1792.¹⁵

For nine years, Pennsylvania made no attempt to settle the disputed titles. Conditions at Wyoming were chaotic. The uncertain land tenures retarded improvement and development. The agents of the Pennsylvania land owners were assaulted and their surveyors intimidated and driven off by the half share men. The Susquehanna Company continued to lay out new townships and its land office at Athens conducted by Franklin issued grants for thousands of acres within the Susquehanna Purchase. The Delaware Company did likewise. The result was the population of the northern tier of counties by hard working and innocent New England families, who were later compelled at a great

¹³ *Pa. Archives*, First Series, Vol. XI, page 355.

¹⁴ *Life of Pickering*, Vol. 2, page 441.

¹⁵ *Life of Pickering*, Vol. 2, chapter 14; Vol. 3, chapter 1.

sacrifice, to buy, again, from the Pennsylvania land jobbers the land their improvements had made valuable. This is the questionable part of Franklin's career; but he and his associates justified their conduct on the ground that the Trenton Decree did not determine the right of soil, the ownership of which, acquired by the Indian purchase, remained in the Susquehanna Company which could dispose of it as it saw fit.

To counteract these activities and restrain purchases from the company, the Pennsylvania Legislature, April 11, 1795 passed the Intrusion Law.¹⁶ It provided severe punishment of those who entered, intruded, settled and took possession of any lands in Northampton, Northumberland, and Luzerne counties by virtue of any half share right or pretended title not derived from the Commonwealth; and also of those who conspired for the purpose of conveying, possessing and settling under any title other than from Pennsylvania. For violation of the Intrusion Act, John Franklin, Elisha Satterlee and John Jenkins were indicted and convicted, but the conviction was set aside on a technicality.¹⁷

In 1795, there was tried before Judge Patterson in the Circuit Court of the United States, the celebrated case of Van Horn's Lessee vs. Dorrance,¹⁸ a suit of ejectment for land in Kingston township. The plaintiff claimed under a Pennsylvania grant and the defendant under Connecticut title through the Susquehanna Company. The case lasted fifteen days and every phase of the controversy was considered. Judge Patterson denied every contention of the defendant, and under his decision the Connecticut title was held invalid. The case was appealed to the Supreme Court of the United States but was never argued and decided. Consequently the case never really settled anything.

The Yankees remained in possession of their lands. The Pennsylvania land jobbers were unable to secure verdicts of ejectment from the hostile Luzerne County juries; and despairing of expected profits and worn out by the long struggle many of them became willing to compromise. The Pennsylvania government finally got a sense of reason and right and the Legislature passed April 4th, the great Compromising Act of 1799.¹⁹ It

¹⁶ 2, *Smith's Laws*, page 209; *Pa. Archives*, Second Series, Vol. XVIII, 708.

¹⁷ *Commonwealth vs. Franklin*, 4 Dallas, pages 254 and 368.

¹⁸ 2, Dallas, page 304.

¹⁹ 3, *Smith's Laws*, page 362; *Pa. Archives*, Second Series, Vol. XVIII, page 715.

provided for surrender and release of their claims by holders under Pennsylvania titles, and payment to them of a money consideration therefore. The commissioners, appointed under the act and their successors, were empowered to hear and determine the ownership of the lands held under Connecticut titles acquired before the Decree of Trenton and upon such determination issue certificates or warrants to the rightful owners. Upon approval of these warrants by the Surveyor General and their presentation to the Land Office, it was provided patents were to be issued for the land described therein upon payments graduated according to the value of the land per acre, viz: first class \$2.00; second class \$1.20; third class 50 cents; fourth class 8 1/3 cents, payable in eight annual installments. Under this and supplementary acts the Connecticut titles mainly in the Seventeen Townships were confirmed. The commissioners, Thomas Cooper, General Steele, William Wilson and afterwards John M. Taylor were men of the highest rectitude and performed their duties with rare intelligence and strict impartiality. Thomas Cooper was the guiding spirit. He was one of the most remarkable men ever connected with the public life of northeastern Pennsylvania, and his career one of the most interesting in the early development of our national life. Cooper was born in London, October 22, 1759, was educated at Oxford and became a member of the English bar. Threatened with prosecution because of his sympathy with the French Revolution, he left England and following his friend Dr. Joseph Priestly came to Northumberland, Pennsylvania where he practiced law. He was judge of the judicial district which included Luzerne county from 1806 to 1811. A violent anti Federalist, he was imprisoned for libelling President Adams. Later he was professor of chemistry at Dickinson College, and professor of law and natural science at the University of Virginia, at the solicitation of his friend Thomas Jefferson, and finally president of South Carolina College. He was of a radical turn of mind, and it is said that he and not John C. Calhoun first formulated the doctrine of nullification and secession.

The enactments and numerous cases concerning the disputed titles are collected and legally discussed in other works to which the inquisitive reader is referred.²⁰

²⁰ Hoyt's Brief of Title in the Seventeen Townships; Brewster, *History of Kingston*, Chapter XI.

One of the mischiefs aggravating the dispute was the erroneous conception the land jobbers had of the value of their claims. Outside the Seventeen Townships, which were mostly confined to the Susquehanna valley, the territory was a rough hill country, covered with hemlock and hard wood timber, then of little value, and the land at most fitted only for grazing. Thomas Cooper rightly said speaking²¹ of a proposed expulsion of the half acre men: "But should they never come back again, that part of the state would become a desert and a desert it would remain, for no Pennsylvanian will ever think of clearing land which none but a New England man can live upon. The half share people are for the most part deceived by the speculating principals of the Susquehanna Company but they are a very orderly set of citizens and most industrious cultivators." He said again: "The Philadelphia land holders who are infatuated with the value of the lands may induce the Legislature to make the country a desert and keep it so."

Franklin, after serving as sheriff of Luzerne county, was elected a member of the Pennsylvania Legislature for several terms. While there his constant agitation of the Connecticut claim created a sentiment in favor of compromise and contributed to effect the settlement made by the Act of 1799. His great popularity among all classes of the Wyoming region remained undiminished. Pickering somewhat envious of him has attested his popularity,²² in this statement: "Even among the old settlers, there appears to be but few who do not anxiously wish for his liberation. This violent attachment, I have often wondered at it." It was not due to the self interest Pickering surmised. It was a debt of gratitude, due to an able, brave, incorruptible man, who had saved them when Patterson and Armstrong drove them into exile, and restore to them, their possessions. It was devotion to a bold, daring man who by his introduction of the half share men had raised the threat of a new state and thereby won for them all the concessions they had obtained. And although through their own self interest, they had ill requitted his devotion, they never ceased to love and honor him.

Pennsylvania had made every effort to get rid of him, by threats, by the alienation of his friends, by bribery and imprisonment. All had failed. There he was sitting among them in his

²¹ *Pa. Archives*, Second Series, Vol. XVIII, pages 68-46 and 492.

²² *Pa. Archives*, First Series, Vol. XI, page 354.

legislative seat, the great Yankee leader making their laws. It was more than the corrupted state could stand. A gerrymander was determined upon. The northern part of Luzerne county, west of the Susquehanna river was attached to the Lycoming county district, by a bill reported. This they thought would deprive him of his seat. The bill was about to pass, when Franklin rose and said that as the bill was directed at him, he desired to inform them he resided on the east side of the river and would not be affected. Much chagrined his enemies amended and passed the bill. Although strangers to him, the voters of Lycoming county rallied to his support and he was triumphantly re-elected, appearing undisturbed at the next session to the great discomfort of his enemies. The people of northeastern Pennsylvania never lost their love for the great leader of the Yankees. Franklin died in 1831 at his fine farm a little below Athens and on the east bank of the beautiful river, which courses its winding way through the domain of which he was the dominant and distinguished figure for fifty years.

In considering the career and conduct of John Franklin, we must conclude that the salient feature of his policy, the determination of the private right of soil by the United States and not Pennsylvania, was correct. But Pennsylvania insisted on determining the dispute in her own prejudiced courts. In the end she yielded, perhaps, more than a Federal court would have allowed. By her perverse course, she deprived, for eighteen years, her own land jobbers of the reimbursement she finally tardily paid them. She expended the lives of her citizens and much of her treasure in a civil war, and she inflicted untold suffering on an innocent people and stained the annals of the state with shame.

Section III

FRANKLIN



CHAPTER I

THE SOUTHERN FRONTIER

Before 1769, the vast territory within the bend of the Tennessee river was an uncharted and unoccupied land. Explorers, hunters and traders had roved here and there, but none long remained and actual settlers were unknown. None of the northern Indians had villages south of the Ohio, and few if any of the southern ones had permanently located north of the Tennessee; but during the hunting season the wandering tribes intermingled in this solitary land and sometimes battled each other for the abundant deer and elk of the wooded hills and the great buffalo herds that roamed across the cane-braked lowlands.

The Cumberland mountains, penetrating the region and dividing the sources of the Tennessee and Cumberland rivers, dwindle away through steep foothills into the rolling prairies of the west, where the fertile soil nourished a dense growth of cane, and covered the uplands with a forest of oak and maple, spruce and pine. Eastward and overlooking this enchanted region are the lofty summits of the Appalachians, and dwelling in the mountain passes were the Cherokees, a numerous people of Iroquoian stock, who were divided into the Elati (Ērati) people of the plains and the Atali (Aturi) Mountain Cherokees, and including the Overhill Cherokees who occupied the mountain sources of the Tennessee river.¹ Westward and extending along the Mississippi were a much less numerous people, the Chickasaws of Muskogean stock; and south of them dwelt the Choctaws of the same family, but most important of these Muskhogean were the Creeks who occupied northern Alabama and Georgia. All these Indians, more agricultural than the northern tribes, raised good crops of corn and vegetables and possessed numerous domestic animals. In the contentions between the European colonizers, the Cherokees and Chickasaws usually sided with

¹ *Handbook of American Indians*, Washington, 1907; T. V. Parker, *Cherokee Indians*, N. Y., 1909.

the English, the former recognizing the King of England in 1730; the Choctaws were friendly to the French; and the Creeks divided their allegiance between the English, French and Spanish as best suited their interests.²

During the French and Indian War, the British built several forts in the Indian country, of which the first was Fort Dobbs erected in 1756 in Rowan county, North Carolina. In 1758, Colonel Bird constructed a fort on the Holston river opposite the Long Island; and about the same time Fort Prince George was built on a tributary of the Savannah river. By direction of Governor Loudon of Virginia, Andrew Lewis constructed Fort Loudon on the Little Tennessee river, which although temporary was the first English occupation of present Tennessee territory. The Cherokees regarded the latter a protection against the French and offered liberal inducements to artisans who would settle in the vicinity. All these forts were garrisoned by royal troops.³

The Cherokees, during the war, were in friendly relations with the English, assisted in the protection of the frontier and some of their warriors participated in the reduction of Fort Duquesne. While returning from Fort Duquesne, the Indians to relieve their half starved condition appropriated provisions and took some wild horses they found in the backwoods of Virginia. The Virginia frontiersmen considered them horse thieves and lynched a considerable number of them. The Cherokees regarded it a foul murder, and according to their custom, they had a right to revenge themselves by killing an equal number of their assailants. They did not distinguish between Virginians and South Carolinians, and considered them the same people; and upon their return home, the Cherokee chiefs deputed a band of young warriors as public avengers, who went out and killed twenty four South Carolinians, the exact number of Indians that had been slain in the Virginia fracas.

The South Carolina legislature, understanding Indian nature and custom, refused to consider this the beginning of a war and apprehended no further hostilities; but Lytleton the royal governor, a vain and arrogant man regarded it an encroachment upon his prerogative, and insisted he alone could determine peace

² *Ibid.*

³ Haywood, *History of Tennessee*, page 41; Ramsey, *Annals of Tennessee*, pages 51 to 54.

and war and demanded that the Indian warriors who had acted as public avengers, "should be delivered up or put to death in their own nation as guilty of murder." Of course, the Cherokees could not comply with this demand, the warriors having acted under authority and by direction of the nation and the chiefs replied, "This would only make bad matters worse." They pleaded for peace. Confidence was being restored and Demere, commander at Fort Loudon wrote, "We have at present great harmony and there is no bad blood"; but notwithstanding, directed by Lytleton, he insisted on the execution of the offending warriors. The commander at Fort Prince George stopped all traffic in amunition and merchandise with the Indians. As the Cherokees were becoming civilized and depended largely on European goods, this prohibition created a critical condition among them and they protested against the order. Lytleton replied to this protest, "If you want peace with us and will send deputies to me as the mouth of your nation, I promise you they shall come and return in safety."

Without awaiting the arrival of the deputation, Lytleton, acting hastily and rashly, called out the militia, invoked the assistance of the neighboring colonies and demanded that the legislature of South Carolina should grant him supplies. To this demand, the legislature unanimously answered, "desiring him to defer a declaration of war." He promised he would do nothing to prevent an accommodation; whereupon money was granted and provision made for calling into the service fifteen hundred men if necessary. The very next day, the governor broke his promise and declared, "he should persevere in his intended measures"; and almost immediately he called out half of the militia.

However, before any drastic action was taken, Oconostata, headman of the Cherokees with thirty deputies arrived in Charleston seeking peace, and declared, "I love the white people, they and the Indians shall not hurt one another. I reckon myself as one of you." Despite all their pleading, in opposition to an unanimous assembly, the lieutenant governor and four of the council, Lytleton replied: "I am now going with a great number of my warriors to your nation to demand satisfaction. If you do not give it when I come I shall take it."

The Indians asked for the safe conduct promised and the governor answered them: "You Oconostata and all with you

shall return in safety to your own country. It is not my intention to hurt a hair of your head. There is but one way by which I can assure your safety. You shall go with my warriors and they shall protect you." In violation of his pledge and the sacred law of all nations civilized and savage, which protects ambassadors, Lytleton arrested the Cherokee envoys and, when they arrived at Fort Prince George, cast them into a vile prison. He declared: "Twenty four of your number I demand to be delivered up to me to be put to death or otherwise disposed of as I shall think fit." The governor surreptitiously obtained a purported treaty of peace, which seemed to sanction the retention of the envoys as hostages until the twenty four were given up, signed by six other Indians who had no authority to do so. From the foregoing statement of facts, it would appear that the Cherokees and the people of South Carolina through their chosen representatives had acted with great circumspection in the preservation of peace; but that the royal governor arrogantly provoked the Indian war which now ensued.⁴

Oconostata, who had now been released, urged on by the young warriors and flaming with resentment at the injustice of his confinement and that of the other envoys, determined upon a stratagem for the release of the twenty four imprisoned hostages. Haywood⁵ who says the enmity of the Cherokees had been kindled by French emissaries from Louisiana recounts the stratagem as follows: "On the 16th of February, 1760, two Indian women appeared at Keowee on the other side of the river. Mr. Doherty went and accosting them asked, "What news?" Oconostata joined them pretending some matter of importance; he drew from the fort several of the officers to converse with him. He requested a white man to go with him as a guide to the governor, and they promised to give him a guide. He then said he would go and catch his horse, and threw his bridle three times around his head. At this signal twenty five or thirty muskets were fired upon the officers from different ambuscades. One of them was mortally wounded and the others of them less dangerously. The officer highest in command in the fort, Ensign Milne ordered the soldiers to shackle the imprisoned hostages. They resisted and killed one man on the spot, whereupon the garrison fell upon and killed every man of the hostages."

⁴ Bancroft, *History of the United States*, Vol. VI, Chapter 15.

⁵ Haywood, page 43.

Immediately, the Indian country was aflame with war and vengeance. Bands of warriors descended from the mountains and burned the settlements. Many were killed or captured and the terrified inhabitants of the scattered cabins fled from the seared borderland; while mountain and dale echoed with wild screams of vengeance and every village resounded with the din of the war song. Ninety-six was invested but an attack on the fort was repulsed and several of the Indians slain.

General Amherst sent Colonel Montgomery with six hundred Highlanders and a detachment of the Royal Americans to chastise the recalcitrant Cherokees. Landing at Charleston late in April, 1760, by a rapid march, he arrived at Ninety-six where his force was augmented by seven hundred Carolina rangers. Pushing forward he invaded the valley of the Keowee renowned among the Cherokees for the beauty of its situation and the fertility of its soil, which nourished abundant crops of corn and beans. The valley of Little Keowee was surprised and every warrior there slain, only the women and children being spared. Estator was destroyed and every other village in the region was burned. Relieving Fort Prince George which was invested by the Indians, he advanced toward Fort Loudon through the Blue Ridge at Rabun Gap and passed into the Little Tennessee valley, where in a narrow pass encompassed by the mountain and a dense thicket his army was ambushed by the Indians. Captain Morrison of the rangers was killed and the army demoralized; but the Highlanders rallied and chased the Cherokees from their hiding places on the hills and in the ravines. The situation, however was dangerous and the army crossed the river. Treading a path so narrow, they had to march single file, while the Indians like hornets stung them front and rear, they raced on toward Etchowee, where they arrived at midnight with a loss of twenty men killed and seventy six wounded. Now unable to relieve Fort Loudon, Montgomery on the following night, by deceiving the Cherokees with blazing campfires, retreated and by a forced march of twenty five miles through the mountainous wilderness reached an upland tributary of the Savannah river and proceeding without further obstruction on July 1st reached Fort Prince George and safety. Not remaining there long, he marched to Charleston and embarked his troops for Halifax.⁶

Thus abandoned, the garrison of Fort Loudon was reduced

⁶ Bancroft, Vol. II, pages 519 to 521; Ramsey, page 56.

to the alternative of surrender or starvation; and Captain James Stuart afterwards Indian agent of the southern department repaired to the Indian headquarters at Chotee where he succeeded in making arrangements, for the capitulation of the fort, which provided for the safe conduct of the garrison to Fort Prince George. An Indian guard for the men was provided but on the way they were surrounded and Captain Demere, three other officers and twenty four or twenty six privates killed and the remainder seized as prisoners and distributed among the Indian villages. Stuart was taken back to Fort Loudon where he was protected by Little Carpenter, a Cherokee chief friendly to the English, who planned the escape of Stuart, and accompanied him to the Holston river where they met Colonel Bird and a detachment of Virginians on their way to relieve Fort Loudon.⁷ Ramsey, page 59, says that "the prisoners that had survived the hardships of hunger, disease and captivity at Loudon were ransomed and delivered up to the commanding officer at Fort George." However, Haywood's account, page 44, is radically different: "At this place, about day break, the Indians fell upon and destroyed the white troops, men, women and children, except three men, Jack, Stuart and Thomas who were saved by the friendly exertions of the Indian chief, called the Little Carpenter.—It is said that between two and three hundred men besides women and children perished in the massacre. The Indians made a fence of their bones, but after the close of the war they were by the advice of Conostata, king of the Overhill Cherokees removed and buried for fear of stirring afresh the hostility of the English traders who again began to visit them."

In June 1761, General Amherst sent Lieutenant Colonel James Grant with regular troops to reduce the Cherokees to submission; and in a battle, which commenced in the morning at 8 o'clock and continued for about three hours, he defeated them. Thereafter, he burned all three villages in the Middle Settlement, laid waste their cornfields and desolated their country so completely that the prostrate Cherokees were glad to sue for a peace which was concluded by a treaty made late that summer.⁸ This treaty insured the comparative tranquility of the southern frontier which then had only advanced as far as the foothills of the Alleghanies and the valley of the Yadkin river in North

⁷ Ramsey, pages 58 and 59.

⁸ Ramsey, pages 44 and 45; Bancroft, II, pages 550, 551.

Carolina. In Virginia there were no inhabitants west of Salem, the sources of the Holston river, and the region in and about Abingdon was then an unsettled wilderness.⁹

Prior thereto and as early as 1748, Dr. Thomas Walker with a company of Virginians made explorations west of the Appalachians and called the high range beyond Powell Valley, the Cumberland Mountains, the gap therein Cumberland Gap and the stream westward the Cumberland river.¹⁰ In 1760, Dr. Walker made further explorations into what is now Kentucky. The Scotch traders who penetrated the mountains and traded in the Cherokee villages brought back glowing accounts not only of the beauty of the country and fertility of the soil but also of the great abundance of game especially of the valuable furbearing animals; and the rich packs of peltry with which they returned excited the cupidity of many Virginia and Carolina backwoodsmen who were more hunters than farmers. Then a skillful hunter and trapper could make more in one successful season than in a half life time labor on a backwoods farm. They usually went in bands of two or more, made a fence camp closed on three sides by poles and bark and open in front before which was kindled their fire. They lived largely on venison and other game and stayed for months, sometimes for a year or more.

The first mentioned of these hunting bands was composed of Wallen, Scraggs, Blivins, Cox and fifteen others from Virginia and Pennsylvania who in 1761 went to what is now Carter's Valley in East Tennessee. They passed through Mockason Gap in the Clinch mountains and established their headquarters on Wallen's creek which runs into Powell's river, now in Lee county, Virginia.¹¹ Haywood says they named the mountain and river Powell's from the name Ambrose Powell, which they saw carved on a tree and they called the mountain and river Clinch, because one of their company an Irishman, who fell overboard while crossing the river, in his distress, called out "Clinch me. Clinch me," meaning lay hold of me. He says also, which appears doubtful, that Wallen gave the name Cumberland to the mountains, gap and river, because they came from Cumberland county, Virginia. This same company hunted in the same region in 1762

⁹ Haywood, pages 47 to 55.

¹⁰ Ramsey, page 65.

¹¹ Haywood, pages 45-46; Ramsey, page 67.

and in 1763, and spent the whole season on the Cumberland river.¹²

In 1761, Daniel Boone came with a party of hunters from the Yadkin valley in North Carolina, although it is believed he was in the country the year before because of an inscription found on a tree on Boone's creek, a tributary of the Watauga. In 1764, Boone and Samuel Callaway explored the country as agents for Richard Henderson.¹³ Joshua Hunt, Uriah Stone and William Baker from Carlisle, Pennsylvania explored the territory south of Kentucky, in 1766, and with Colonel James Smith floated down the Tennessee to the Ohio.¹⁴ In 1767, John Findley an Indian trader passed through the Cumberland Gap and explored the valley of the Kentucky river.

The vast territory west of the Appalachian mountains and between the Tennessee and Ohio rivers, comprehending most of the present states of Kentucky and Tennessee morally belonged to the first settlers who occupied and cultivated the soil, but due to fictions of law, discovery and conquest, it was claimed in 1768 by the English sovereigns, and through them by Virginia, and North Carolina, by the Six Nation Indian Confederacy, and by some of the southern tribes, particularly the Cherokees. The English kings claimed North America by virtue of Cabot's prior discovery. In 1606, King James I granted to the London or Virginia company that part of North America south of the 38th degree of latitude¹⁵ or more particularly described: "From the point of land called Cape or Point Comfort all along the sea coast to the northward two hundred miles; and from the said point of Cape Comfort all along the sea coast to the southward two hundred miles; and all that space and circuit of land lying from the coast of the precinct aforesaid from sea to sea."¹⁶

In March 1662-63, Charles II granted to the proprietors of North Carolina all the territory: "extending from the north end of an island called Luke Island which lieth in the Southern Virginia seas and within thirty six degrees of north latitude and to the west as far as the South seas." The southern boundary was fixed at the 31st degree of latitude. In 1665, Charles II extended the territory granted to the proprietors of Carolina

¹² *Ibid.*

¹³ Ramsey, page 69.

¹⁴ Haywood, page 49.

¹⁵ Bancroft, Vol. I, pages 85-86.

¹⁶ Haywood, page 16.

on the north to 36 degrees 30 minutes and on the south to the 29th degree of latitude and running to the south seas. These two grants determined the limits of the Carolinas and fixed the dividing line between North Carolina and Virginia at 36 degrees 30 minutes north latitude, but the actual line was not established for many years, and its uncertainty influenced the settlement of the land west of the Appalachians. Upon these grants to the south sea or Pacific Ocean, Virginia and North Carolina relied for their respective claims to the territory west of the mountains.

The powerful Six Nation Confederacy had in former years waged successful wars against the western and southern tribes and extended their conquests as far west as the Mississippi and to the Tennessee river in the south. This formidable and highly organized Iroquois Confederacy early submitted to the sovereignty of the English kings and the British government in turn recognized their claims of conquest as valid; and claimed that because of their submission, the kings of England succeeded to their conquest rights. However, the kings recognized the Iroquois right of occupancy and made no entry on any of these lands without purchase from them.

The Iroquois were the mighty masters of the wilderness. They had almost ruined New France and chased the settlers along the St. Lawrence within the ramparts of Quebec and the palisaded forts at Three Rivers and Montreal. They had ruined the Jesuit missions and driven the Hurons beyond the Great Lakes. Their valiant warriors had almost destroyed the Susquehannocks, made women of the Delawares, conquered the Shawnees, Miamis and Illinois and driven the Cherokees south of the Tennessee. These subject tribes, they ruled through their governors, Shikellimy at Shamokin and the Half King at Logstown on the Ohio. The decrees of their great council composed of forty eight of their hereditary sachems were carried by fleet Indian runners over the warpaths which radiated like Roman roads from their capital at Onondaga to the most remote Indian village. Their marvelous military and civil organization enabled them to conquer and control. Their business was war and government.

As to the Cherokees, their proximity to the Tennessee river was a nuisance which might prevent or deter settlement and constituted the only real value to their claim.

After Colonel Boquet's subjugation of the western tribes

who had risen under Pontiac, in order to prevent provocation of the Indians by the intrusion of settlers, King George, on October 7, 1763 issued a proclamation prohibiting the provincial governors from granting lands or issuing land warrants in the territory west of the sources of those streams flowing into the Atlantic and prohibiting all settlement therein; and also providing that no purchase of Indian lands could be made by private individuals and that all future sales should be made to the king by a general and open council of the Indians. This proclamation was generally observed by the colonists, but it proved irksome, to the land speculators, particularly in Virginia, where the Ohio Land Company had been organized; and yielding to their importunities and the necessity of providing new lands for prospective settlers, the king ordered his Indian agent, Sir William Johnson to summon a council of the Six Nations, which he convoked at Fort Stanwix, now Rome, New York in the fall of 1768. This order had been apprehended and surveyors began establishing the boundaries of soldiers bounty lands and others intruded and made choice locations.¹⁷

More than twenty two hundred Indians were assembled at Fort Stanwix when the council began its sessions, October 24th, and the number was subsequently augmented by numerous accessions of the subject tribes gathered there by the Six Nations. It is said some of the Cherokees were present and upon their arrival presented the Six Nations with skins of animals they had slain on their journey, saying, "They are yours. We killed them after we passed the big river" meaning the Tennessee.¹⁸ If true this statement indicates the Cherokees acknowledged the ownership of the Six Nations.

By a deed signed, November 8, 1768 six chiefs of the Six Nations conveyed to King George III all the territory south and east of a line beginning at the mouth of the Tennessee river and running along the south side of the Ohio to Kittaning and thence cutting diagonally across Pennsylvania to near Hancock New York on the Delaware river thence running northwesterly across New York to beyond Fort Stanwix. All east of this line, including most of Tennessee and Kentucky, northwestern Virginia, a good portion of Pennsylvania, and a small part of New York, was opened for English settlement.

¹⁷ Ramsey, page 72.

¹⁸ Haywood.

CHAPTER II

WATAUGA

In the southwestern tip of Virginia originate several streams which flowing southwesterly through gaps in the Alleghenies are sources of the Tennessee river. The Powell river, the most westerly of these, runs through the upper part of East Tennessee into the Clinch river which has its source in Virginia and its outlet in the Tennessee below Knoxville. Both the north and south forks of the Holston river pass through the mountains and their united waters run for many miles southwesterly to their confluence with those of the French-Broad river and the formation of the Tennessee a few miles above Knoxville. The Watauga, a sparkling stream ripples northward over little cascades to the Holston and its fertile meadows first attracted settlement. The Nolachucky, a considerable stream south of the Watauga, flows, from the east, westward to the French-Broad river, which has its sources in the highest altitudes of the Appalachian range where clouds of smoky mist envelop the lofty heights and obscure the sun. The fertile valleys, the undulating uplands and the uneven hills between these streams form the topography of East Tennessee, a well-watered country resplendent with luxuriant foliage and densely covered with hardwood and pine. This abundant land of promise invited the settlement of an independent and virile people and the numerous gaps in the mountains carved by these rivers made it easily accessible to them.

Virginians had already built their cabins on the banks of the Holston river and as far south as the present Abingdon. These Virginians, mostly German and Scotch-Irish people, whose ancestors had settled in the Cumberland valley and occupied the mountain coves west of the Susquehanna, made their way from Pennsylvania, first to the Valley of Virginia and thence advanced to the sources of the Tennessee. Their numerous migrations constituted a part of the western movement manifest in all the colonies, the great incentive of which was the lure of better and cheaper land in the unsettled regions.

Likewise the western districts of North Carolina had been settled by the same people, together with some Quakers, and they made their pitches beneath the shelter of the western mountains and along the Yadkin river. By industry and thrift, they had developed considerable plantations and attained contentment and prosperity when their progress was arrested by the tyranny of the royal government. The worst of their oppressors was Tryon, the royal governor who drove them to resistance. His greedy and servile judges and sheriffs levied excessive taxes, imposed unbearable fines and penalties and made unjust and unnecessary imprisonments; and the lawyers, of the same clique, they hired to resist these extortions, exacted exorbitant fees and betrayed them. Exasperated by the wrongs they could no longer endure, the frontiersmen of the western districts formed organizations called Regulators which openly defied the courts and rose in armed rebellion against the royal government. Unorganized and undisciplined, misguided and misled, they were signally defeated by Governor Tryon and his regular force at the river Alamance in 1771. Following this battle, the victorious and vicious governor confiscated and destroyed many of their plantations and proscribed the leaders of the insurrection with death or banishment. Compelled by these severities and the poverty of their situation, many of those who escaped the fury of the governor sought refuge west of the mountains. Another contributing cause of the migration was the flight of the Tories who at the outbreak of the Revolution refused to take the oath of allegiance required by the newly organized state of North Carolina.¹

Before 1768, an iron curtain, the King's Line, heretofore mentioned, prevented lawful settlement west of the mountains, but the Treaty of Fort Stanwix obliterated the old line and opened for occupation a vast region, including the territory drained by the rivers which proceed from Virginia into East Tennessee. Moreover, John Stuart, Superintendent of Indian Affairs in the southern department, had, before the conclusion of the Fort Stanwix council, by a treaty with the Cherokees, established the western line between Virginia and the Indians as "extending from a point where the western line of North Carolina intersects the Cherokee hunting grounds (about thirty six miles east of the Long Island in the Holston river) to the

¹ Bancroft, Haywood and Ramsey.

Kanawha river and down it to its junction with the Ohio." By the treaty of Lochabar in 1770, this line was extended westerly to within six miles of the Long Island.²

At peace with the Indians and no longer prevented by the king's inhibition, the eager Virginians speedily advanced into the abundant land of promise. The first adventurer was Captain William Bean who moved his family from Pittsylvania county, Virginia and early in 1769 built his cabin on Boone's creek a tributary of the Watauga river, and thus became the first settler of the present state of Tennessee. It is said, Bean had previously hunted there with Boone and was attracted to the spot by the abundant game.³ Little is known of him, save that he was one of the thirteen commissioners elected by the Watauga Association, and that Bean's Station was afterwards settled by him. His son, Russell was the first white child born in what is now Tennessee, and his wife was subsequently abducted by the Indians.

Other Virginians soon followed and located along the Watauga; and a tide of emigration set in from the sources of the Yadkin and Catawba rivers in western North Carolina, the most notable of those from the latter colony, being James Robertson, who came early in 1770 from Wake county with a few of his neighbors. Robertson was a remarkable man and one of the principal founders of Tennessee.⁴ Without education or family connections, but possessed of a strong mind and body, his great natural ability made him a leader of men, one of those characters pre-eminent among their associates in all times and under every circumstance.

The settlements in East Tennessee were not, however, confined to the valleys of the Watauga and Holston rivers for about the same time, several families located in what is known as Carter's Valley about eighteen miles above Rogersville, and two of these newcomers, Carter and Parker opened a small backwoods store which was subsequently robbed by the Indians.⁵ Shortly after, in 1772, Jacob Brown with two other families from North Carolina came to the Nolachucky river neighborhood, and Brown brought with him a single packhorse stock of merchandise with which he started a trading post.

² Ramsey, 102.

³ Ramsey 94; Phelan, *History of Tennessee*, 20-21.

⁴ Ramsey, 103-104; Haywood 32.

⁵ Ramsey, 111.

Of these beginnings, Watauga, being the first, seems to have attracted the most prominent of the future leaders and founders of Tennessee, among whom was Charles Robertson, who came from South Carolina. At first the Watauga settlers attempted to quiet the Cherokees by obtaining a lease, from them of the lands occupied, for a period of eight years, but this arrangement proving unsatisfactory, the Cherokee chiefs in 1775 made a deed to Charles Robertson for £2000 of all the lands on the waters of the Watauga and lands on part of the waters of the Holston and headwaters of the New River or Great Kanawha. These lands, Robertson faithfully granted to the respective settlers, for whom he appears to have been acting as trustee.⁶ Subsequently, he was a prominent actor in all the proceedings of the Watauga Association, served in the North Carolina legislature, was speaker of the senate of the state of Franklin and served as an officer in the Revolution and in expeditions against the Indians. He lived south of Jonesborough and died about 1800.⁷

Another leader was Colonel John Carter who first located in Carter's Valley and then removed to Watauga. He was chairman of the first committee and court of the Watauga Association and the most conspicuous of the early leaders and next to James Robertson the most influential.

But of all the leading men of Watauga, the principal one was John Sevier, a member of the first committee of the Watauga Association, representative in the Provincial Congress and first Constitutional Convention of North Carolina, governor of the state of Franklin, first and six times governor of Tennessee, four terms member of the United States Congress, one of the leading commanders in the Battle of King's Mountain, and military chieftain in the wars against the southern Indians in which he fought thirty five battles. He is ranked by Roosevelt as the best Indian fighter on the border.⁸ An account of his life is the whole history of Franklin and the early history of Tennessee. John Sevier was the grandson of a Huguenot who fled from France to London, whence his father Valentine Sevier emigrated to the Shenandoah Valley, settling in what is now Rockingham county, Virginia in 1742, where his son John was

⁶ *Ibid.*, 119-120.

⁷ For account of his life, see Williams, *Lost State of Franklin*, 306.

⁸ Roosevelt, *Winning of the West*, Vol. III, page 188.

born September 23, 1745. Educated at Fredericksburg and Staunton, he helped in his father's store and at the early age of sixteen years married Sarah Hawkins. When about twenty years old, he purchased a farm on which he laid out and founded the village of New Market. Induced by Evan Shelby, he visited the Holston country in about 1771, and decided to locate there, which he did shortly thereafter, being accompanied by his father and brother, Valentine Jr., and settling on the Watauga river between the present Elizabeth and Johnson City. About 1778, he secured a large plantation which he called Mount Pleasant, in the present Washington county and on the Nolachucky river, and thenceforth he became popularly known as "Nolachucky Jack."

Sevier was a tall handsome man of charming and polished manners, and his ready adaptability made him popular with all classes of people. His first wife having died, he married Catherine Sherrill familiarly known as "Bonny Kate," who as the story goes, a tall, brown-haired good looking girl, agile "as a hickory sappling," one day while without the Watauga fort during the siege was surprised by some lurking Indians. She turned and fled and running like a deer reached the stockade, sprang up, caught the top and throwing herself over the palisades fell into the arms of Sevier, who immediately fell in love with her.⁹ John Sevier died September 24, 1815 at Fort Decatur, Alabama where he had gone as a United States commissioner to fix the Cherokee boundary line. "Strange as it may seem to non-residents of Tennessee, Sevier has continued through succeeding generations to hold the first place in the hearts of the people of the commonwealth."¹⁰

Among the notable families of the Holston-Watauga country were the Shelbys. Evan Shelby settled on a large plantation called "Sapling Grove" on the Holston river, it being now the site of the city of Bristol. He was born in Wales and came to America with his parents, locating in Maryland. He served during the French and Indian War and at its termination became an Indian trader. In 1771, he removed to the Holston and engaged in storekeeping, cattle raising and the management of his large landed estate. He continued to reside at "Sapling Grove" the remainder of his life and died December 4, 1794,

⁹ Roosevelt, *Winning of the West*, Vol. I, page 92-93.

¹⁰ Williams, *Lost State of Franklin*, page 290.

being buried in East Hill cemetery, Bristol. Shelby commanded the Wataugs company in Lord Dunmore's War and participated in the Battle of Point Pleasant. He served in the North Carolina senate and was appointed a brigadier general by that state. General Shelby was a well educated man of short stout build and stern features. His descendants became leading citizens of Kentucky and Tennessee, the most noted of whom was Isaac Shelby the first governor of Kentucky.¹¹

In 1775, Jacob Brown secured a conveyance from the Indians of the lands along the Nolachucky river adjoining the Watauga purchase by Robertson, heretofore referred to.¹²

The territory north of the Holston river was at the time of its first settlement believed to be in Virginia, the boundary line with North Carolina not then having been run west of the mountains; and the people located there considered themselves under Virginia jurisdiction and governed by its laws. It was admitted that the country south of the river was within the boundaries of North Carolina, the seat of its government being far removed and by the mountain barrier almost inaccessible. The first settlers were connected by family or neighborhood ties and being honest, industrious men, who had migrated to the better and cheaper land to improve their condition, lived together in peace without civic regulations. But like all increasing societies, their numbers were not augmented, alone, by a similar people, but by others of a different stripe, who to escape punishment for crimes committed in their own country, fled to this remote and isolated frontier where there was a civic state of nature and no law to fear. Moreover, no society however law abiding can long exist without government and laws regulating conduct, the recording of deeds, the probating of wills and the administering of estates. Consequently, the Watauga settlers had recourse to a government by themselves and for themselves.

Their action was not unlike that of other settlers under similar circumstances, but being the advent of self government in the southwest has attracted unusual and deserved attention. Like all the others, it was based on a written and signed agreement of the participants, and providing for the general functions of government. This Watauga Association was formed in 1772. Although the articles of agreement are lost, the government or-

¹¹ *Lost State of Franklin*, pages 330 to 336.

¹² Ramsey, 121.

ganized thereunder, seems to have exercised general control of affairs both executive and judicial, to have given general satisfaction and continued for sometime. Thirteen commissioners, representing the different settlements were elected and as they composed the first government in the west, it is well to list their names as follows: John Carter, Charles Robertson, James Robertson, Zach Isbell, John Sevier, James Smith, Jacob Brown, William Bean, John Jones, George Russell, Jacob Womack, Robert Lucas, and William Tatham. From these, John Carter, Charles Robertson, James Robertson, Zach Isbell and John Sevier were chosen as the executive committee or court, John Carter being the chairman and William Tatham the clerk.¹³ Apparently this court had several clerks among them being, William Tatham, Felix Walker, Thomas Gomaly and John Sevier. The district attorney was Lewis Bowyer and there was a sheriff but his name is unknown. Evidently the court had cognizance of all cases, civil and criminal, the recording of deeds, probating of wills administering of estates and all other matters necessary to law and order. Its procedure was according to the laws of Virginia.

During the time the settlements had no government or existed under the simple and efficient one of the Watauga Association, James Robertson averted an Indian war by making a treaty of peace with the Cherokees.¹⁴ Captain Evan Shelby raised a company of more than fifty men who participated in the Battle of Point Pleasant.¹⁵

The next step in the development of East Tennessee, probably, followed a petition which Mr. Ramsey found among the archives at Raleigh. It appears to be in the handwriting of John Sevier, and begins, "The humble petition of Washington District, including River Watauga, Nonachuclie etc. in committee assembled etc.",¹⁶ recounts the history of the settlements, the formation of the Watauga Association, and concludes: "That you may strictly examine every part of our Petition and delay no time in annexing us to your Province in such manner as your wisdom may direct is the hearty prayer of those who for themselves and constituents, as in duty bound shall ever pray etc." It is signed by twelve members of the committee and one hundred

¹³ Ramsey, 106-107; Haywood, 54.

¹⁴ Ramsey, 111, 112.

¹⁵ *Ibid.*, 114, 115, 116.

¹⁶ *Ibid.*, 134.

other settlers. The petition is undated but contains the endorsement, "Received August 22, 1776."

The petition must have been favorably acted upon as in the Provincial Congress which met at Halifax, November 12, 1776. Charles Robertson, John Carter, John Haile, and John Sevier were members from Washington District, Watauga Settlement, the name designated in the petition. By this congress or convention, which continued until December 18, 1776, a bill of rights and a state constitution were adopted; and in the declaration of rights appears this significant proviso, after specifying the limits of the state: "That it shall not be construed as to prevent the establishment of one or more governments westward of this state by consent of the legislature." Perhaps, this proviso was inserted at the request of the members from the Washington District, who even then had in mind the creation of a new state west of the mountains and the continuance of the independence they had enjoyed under the Watauga Association.

Now literally a part of North Carolina, the western people found their situation little changed and received small support from the parent state in repelling the Indian invasions of their country.

In the past, the Cherokees had maintained friendly relations with the whites, but now that the former colonies were in revolt, the British officers resorted to every artifice that would provoke an Indian uprising. John Stuart, the British Indian agent in the south and his subordinates were active and by liberal promises of ammunition, supplies and other rewards incited the savages against the whites. Warning of the impending invasion of seven hundred Cherokee warriors was communicated to Watauga by the celebrated halfbreed, Nancy Ward, who was friendly to the whites, and the alarm produced by this information gave the inhabitants time to prepare in some measure for their defense. Militia companies were assembled and frontier forts garrisoned and strengthened. The assembled militia met and defeated the Indians in an engagement known as the Battle of Island Flats near the Long Island in the Holston river.¹⁷ On the same day of this battle, another band of Cherokees came up the Nolachucky terrorizing the isolated settlers and attacking the fort at Watauga, which was then commanded by James Robertson with John Sevier second in command. The garrison of only forty

¹⁷ Ramsey, 152 to 154; Haywood, 62 to 64.

men successfully defended the fort and before the arrival of reinforcements under Colonel Shelby, the Indians retreated.¹⁸

During the time of the investment of the fort, the Indians killed one or two men and captured Mrs. William Bean and a boy named Moore who was subsequently burned at the stake. Roving bands of Cherokees entered Carter's Valley, but the settlers timely warned sought refuge in the fort and escaped. There was no organized resistance to the party of Indians who invaded the settlements on the Clinch river and there they swept all before them, burning the isolated cabins and spreading death and destruction.¹⁹

In this emergency, Virginia came to their relief and ordered Colonel William Christian to raise a force and invade the Cherokee towns. His little army gathered at the Long Island and marched from there across the French-Broad river and entered the Indian country, pushed down the Tennessee burning several villages and halted at the Great Island where they remained for about twenty days. In the meantime, the Indians panic stricken, sued for peace, which was granted, hostilities to cease until the month of May following when a formal treaty was to be made with the whole assembled tribe.²⁰

Another force raised in North Carolina under General Rutherford marched by way of the French-Broad river into the middle settlements and valley towns of the Cherokees where they burned thirty six villages and destroyed the standing corn with all the domestic animals that could be found.²¹

Commissioners from Virginia and North Carolina met the Cherokees at Fort Patrick Henry near the Long Island in July 1777 when terms of settlement were agreed upon. On July 20th, the Indians made two separate treaties one with Virginia and one with North Carolina.²² These treaties seem to have made a fair settlement. They provided for the establishment of a new boundary between the Indian territory and the settlements; for the punishment of offenses committed by the Indians in white territory by the courts of North Carolina; and for the punishment by the Cherokees of whites guilty of crimes in their

¹⁸ Haywood, 65; Ramsey, 156.

¹⁹ Haywood, 65; Ramsey, 159.

²⁰ Haywood, 66-67; Ramsey, 165 to 169.

²¹ Haywood, 67; Ramsey, 164.

²² Haywood, *Appendix*, 502 to 514.

territory; for the exclusion of all white intrusions beyond the established boundary; and for the appointment by North Carolina of an Indian agent resident in the principal Cherokee town to which position James Robertson was appointed. While this treaty did not insure complete security, a few isolated Indian depredations continuing, it did result in an enlargement of the territory available for occupation and the accession of many new settlers. Colonel Christian's soldiers had been impressed with the country, and consequently many of them moved into East Tennessee and greatly augmented and increased the population. Men no longer depended upon hunting and fishing for their support, but now turned to the cultivation of diversified crops of grain and the raising of cattle and sheep. Gristmills were erected, roads opened, and ferries maintained across the principal streams.

In line with this general improvement, the assembly of North Carolina in November 1777, formed the Washington District into a county of the same name and provided for the opening of a landoffice therein. The head of a family could at the rate of forty shillings per one hundred acres acquire title to six hundred forty acres of land for himself, one hundred acres for his wife and the same amount for each of his children. These liberal provisions enabled a poor man with few possessions to secure an ample plantation of rich land and was a great inducement to the rapid settlement of the country.²³

The court records indicate that about the same individuals who comprised the commissioners of the Watauga Association constituted the justices of the county court; and that John Sevier was clerk, John Carter chairman and entry taker, and Valentine Sevier sheriff. The first court was held at the house of Charles Robertson, but in 1779, the legislature laid off and established Jonesborough as the county seat, it being the first town in what is now East Tennessee. There a log courthouse was erected, twenty four feet square with "a justice's bench, a lawyers and clerks bar, and a sheriff's box to sit in."²⁴ The same year Sullivan county was erected with the first court meeting at the house of Moses Looney with Isaac Shelby acting as one of the justices and colonel commandant of the county. In 1783, Washington county was divided, Greene county being erected out of it, with

²³ Ramsey, 175.

²⁴ Contained in county records.

its first court meeting at the house of Robert Case. These early courts were of the most primitive sort, being presided over by the justices of the peace, who were appointed by the state government. It appears attorneys were admitted to practice in them, but how many were trained lawyers is problematical, presumably, like William Cocke who was one of the earliest lawyers in Washington county, they depended more on their natural abilities to harangue a jury than on their legal knowledge.

The intrigues of the British agents still continued, and to subdue the truculent Chickamaugas, who refused to abide by the treaty made by the other Cherokees and who seriously interfered with the passage of emigrants down the Tennessee, North Carolina and Virginia organized a strong expedition against them under the leadership of Colonel Evan Shelby who marched into their country, destroyed eleven of their towns, 20,000 bushels of corn and took £20,000 worth of supplies which had been distributed among them by the British agents.²⁵

In 1779, Watauga suffered a serious loss in the migration of James Robertson to the Cumberland region, where in conjunction with Colonel John Donelson and others he founded Nashville of which thereafter he was the leading man.²⁶

The decline of the Whig cause in the southern states, the rapid advance of the British army under Lord Cornwallis, and the consequent uprising of the Tory element, caused consternation among the patriot leaders of North Carolina. They requested the support of the over mountain men, who responded to their appeals by raising a considerable force of militia under the command of John Sevier and Isaac Shelby. They assisted in resisting the British invasion and participated in the battle at Musgrove's mill; but the defeat of Gates at Camden broke up the North Carolina army and the Watauga men retired to the safety of their homes beyond the mountains.²⁷ But even there, the advance of the British and Tories under Ferguson caused alarm, and it was determined to raise a force and combat the enemy before they advanced and attempted to penetrate the mountains. Accordingly, an army was assembled at Watauga in September, which consisted of four hundred men from Wash-

²⁵ Haywood, 72, 73; Ramsey, 186, 187; Roosevelt (*Winning the West*) doubts the accuracy of some of the losses given by Haywood and Ramsey.

²⁶ Haywood, 95 to 107; Ramsey 194 to 203; Putnam, *History of Middle Tennessee*, Chapter IV.

²⁷ Haywood, 76 to 89; Ramsey 211 to 221.

ington county, Virginia under Colonel William Campbell; two hundred forty men from Washington county, North Carolina under John Sevier; two hundred forty men from Sullivan county, North Carolina under Colonel Shelby; and the refugee Whigs, who had fled over the mountains under Colonel Mc Dowell. Colonel Williams with a force from North Carolina, later joined them. They were well mounted and armed with rifles in the use of which every man was an expert. Unincumbered by baggage, save blankets, powder horns and bullet pouches, they rapidly passed the mountains and descended to the uplands of North Carolina, where they were joined by Colonel Cleveland of Wilkes county and Colonel Winston of Surrey county. They subsisted on the Tory farmer's corn and cattle, and at night while they bivouacked on the open ground turned their horses loose to graze in the meadows of their foes.

Alarmed at their approach, Ferguson attempted to evade them, but they hung like leeches on his flanks and drove him to his doom. On the summit of King's Mountain, he entrenched his men as best he could and sent Cornwallis a message to aid him. Without a commander, the American officers herded themselves together and chose Colonel Campbell to command them. Having hounded Ferguson to his den, the Americans dismounted and, leaving their horses under guard, encircled the mountain. They deployed their forces, the right wing under Winston and Sevier, the left under Cleveland and Williams, and the center under Campbell on the right and Shelby on the left. The battle began late in the day of October 7th. The Americans led by their colonels ascended the mountain, firing from the shelter of the trees as they advanced.

Ferguson mustered his regulars who with fixed bayonets drove them back, but each time like hornets they returned to sting the British again and again. Campbell with the men of the center finally reached the summit and secured firm lodgement there. Pressed on every side, Ferguson vainly strove to rally his men. Through the smoke and din of the battle, the sound of his whistle with which he signalled them, directed the fire of the riflemen. A gust of wind parted the cloud of smoke and one of the mountain men detected him. His rifle cracked, and its bullet brought him down. He was dead. De Peyster, second in command surrendered himself and the seven hundred of his remaining men. They were marched by their captors to imprison-

ment beyond the mountains. The battle which lasted about an hour tested the valor of the mountain men and was a crisis in Cornwallis' campaign, which ended at Yorktown.²⁸

The Cherokees in 1781 assumed a hostile attitude, and Colonel Joseph Martin with between three and four hundred men enlisted from the Watauga and Holston settlements invaded the Indian country and accomplished some destruction, but the results were indecisive. The Cherokees persisting in their hostility, John Sevier, in March, at the head of a smaller force attacked their middle settlements and during the summer chastised the Indians on Indian creek, and a little later the Cherokees sued for peace. Again in 1782, Sevier led a force against the Chickasaws and inflicted severe damage to their country.²⁹

However, during these disturbances, East Tennessee was rapidly increasing in population and wealth. The settlements were being consolidated and a better organization, for defense in the three North Carolina counties, lessened the danger of Indian attack. Watauga was passing from a frontier settlement into an agricultural community, and because of its isolation was developing political projects and ambitious leaders.

²⁸ L. C. Draper, *Battle of King's Mountain* which is a lengthy and detailed account; also Haywood, 81 to 85; Ramsey 232.

²⁹ Haywood, 111, 112, 119, 121; Ramsey 262.

CHAPTER III

CESSION OF TERRITORY BY NORTH CAROLINA

The configuration of the country west of the Alleghenies determined the course of empire. The lofty heights of that range interposed a barrier to communication with the east, while the numerous tributaries of the Ohio, navigable almost to their sources, afforded easy transportation down the Mississippi of the products of the rich land they drained. This natural avenue of travel and trade, necessarily, severed the links which bound the adventurers west of the mountains with the seaboard states. This was not unforeseen by leading men of the east who deplored the migration of so many of their people to the west and were apprehensive it would not only deplete the population of the eastern states but shift the political power to the west. In considering the disposition of the western territory claimed by some of the states, this view must not be overlooked. Another consideration was the adjustment of the debts of the Confederation among the several states. In order to pay this debt, the states that had no western claims insisted those that had should surrender their unsettled territories to the general government; and while yielding to this demand, the states with claims imposed restrictions and conditions which in some cases made their cessions unacceptable by Congress.

A secret and corrupt influence in and out of Congress was that of the land jobbers. The exploitation of western lands seems to have become a mania among the politicians of the time; and even such great and patriotic leaders as Franklin and Jefferson were temporarily drawn into doubtful schemes by wily promoters, but to their credit they soon withdrew and ceased to participate. But others, like politicians, in all ages, who boastfully proclaim their patriotism and secretly practice their chicanery, used their influence to obtain vast acquisitions of land for themselves, some to their great loss, degradation and ruin. This pilfering of public land has continued from the earliest settlement of the country

down to the present time and is one of the great injustices of our civic development. While we can not gauge the influence of the land jobbers, because of its secret exercise, it is well to keep it in mind in considering the history of the lost state of Franklin.

The spirit of independence and separation is the outstanding feature in the character of the western settlers. Many were young men impatient of the restraint imposed in the old communities; a few were criminals who fled to the wilderness to evade punishment for their crimes; others were bankrupts who sought escape from their debts; and most were poor, honest men who hoped by industry and thrift to achieve success on the cheaper and better land. Uneducated and uncultured as they were, there were among them men of great natural abilities who attained leadership and prominence. But all the elements of this heterogenous population were constantly irked by the conformity exacted in the more developed and cultured communities of the east; and, naturally revolted against the exactions there imposed. It was but natural that the spirit of independence there engendered would not long submit to outside control; and, moreover, the condition of the thirteen confederated states indicated their rapid deterioration and threatened dissolution.

This rebellious and separatist spirit was manifest nearly everywhere; in Massachusetts where it broke out in open rebellion under Shays; and in Pennsylvania where the commonwealth was unable to maintain its government over the revolted colony at Wyoming. It was most unlikely that this separatist feeling so prevalent elsewhere could long be controlled in the western settlements particularly, in Kentucky and East Tennessee. Only a spark was needed to touch off a revolution against the more moderate and conservative east; and leaders, in East Tennessee, were not wanting to kindle the fire. They were men of bold and daring characters and of great natural parts who had already been schooled by military experience and practical politics. They were ambitious and anxious to win fame in a revolutionary and disturbed period; but it is not to be presumed that ambition, alone or in great part, actuated the separation of the three western counties of North Carolina from the parent state. The continued neglect of North Carolina to take adequate military measures against the murderous incursions of the Cherokees, and failure to provide a regularly constituted supreme court were

sufficient provocations for separation. Moreover many of the settlers and some of the principal leaders were Virginians with no special affection for North Carolina. They had little economic connection with North Carolina, the mountains constituting an almost impassable barrier. Their access, to the northern cities from whence they obtained their supplies, was through the river passes into Virginia. Moreover, North Carolina and the east offered no available market for the products of their farms which could be easily transported down their navigable rivers and by the Mississippi to the sea.

The situation of North Carolina was no better. Their wisest men foresaw that it was only a question of time when there must be a separation, and no one could anticipate any future substantial benefit to the eastern part of the state by a continued connection with the western counties. The taxpayers were reluctant to contribute money for the support of a territory from which they soon expected to be sundered; and the legislators complained of the excessive bills submitted for support of the militia in the western district, and some of them openly charged they had been padded. Yet, for various reasons North Carolina was reluctant to grant separation or a cession of the west to the general government. The finances of the state were in a desperate condition, there was a lack of specie and the state was honeycombed with debts.¹ It was hoped to retrieve this critical situation by the exploitation of the western lands. Some of the most astute politicians were implicated in land speculation schemes and their personal interest complicated and influenced the state's legislation. State pride was an element of resistance, as many citizens were loathe to part with so great a part of the public domain without any recompense; and while this was largely a sentimental reason, it weighed heavily with some of the best people.²

The Confederate States were overwhelmed with a crushing burden of foreign and domestic debt, and with no means for its liquidation, Congress having no power to collect the quotas assessed against the respective states. In this emergency, the "landless states," those without claims to western lands insisted that as the national debt had been incurred in the common defense, the states with western claims should cede those claims

¹ Schoepf, *Travels in the Confederation*, II, pages 131-132.

² For conditions in North Carolina, see: Haywood, *Ramsey and Williams*.

to Congress which could pay the debt by the sale of the lands therein. Congress adopted this plan and called on Massachusetts, Connecticut, New York, Virginia and North Carolina to make cessions of their claims. Virginia and North Carolina at first resisted this demand: but finally the North Carolina delegates in Congress ventured to suggest, that if their state could be induced to cede its western territory, the following conditions must at least be imposed: the expense of its Indian expenditures must be credited to its quota of Continental assessment; actual valuation of all lands and improvements in ceded lands to be made before confirmation of the cession; and if the territory ceded is erected into a separate state, part of the public debt should be transferred to it according to the value of its lands. Of course these conditions inured to North Carolina's benefit, and to the detriment of the general government and the western counties should they be erected into a new state. Governor Martin of North Carolina in a letter³ significantly stated: "I can venture to say there will be no cession of any land worthy of acceptance as the principal lands will be entered before this reaches you." As part of this plan to enrich the land jobbers of North Carolina, an act was passed to open the ungranted Indian lands for settlement. This dishonest act was immediately followed with entries for vast tracts of the richest lands by the leading North Carolina politicians and the favored few.

Congress persistently urged North Carolina to make the cession and her delegates in Congress unable to withstand the pressure urged Governor Martin to comply; and after some delay the legislature passed an act of cession.⁴ On the vote, the members from the western counties were evenly divided. The act of cession⁵ provided that neither the lands nor the inhabitants of the ceded territory should be included in estimating North Carolina's quota of the national expenditures; that lands provided for the state's officers and soldiers should inure to their benefit; that the ceded lands be deemed a common fund for the benefit of all existing and future states; and that the ceded territory should be formed into a state or states. There was a provision that if Congress did not accept the cession within twelve months the cession should be void and the lands

³ *North Carolina State Records*, XVI, pages 733, 919.

⁴ Ramsey, page 284.

⁵ *North Carolina State Records*, XIX, 642-683.

⁶ *Ibid.*

revert to the state. A subsequent act was passed, providing the state's jurisdiction should continue until Congress accepted the cession and that the land office for the western counties should be closed.⁷

Another movement which considerably influenced the future complicated relations of North Carolina will be briefly reviewed. The rich bottom lands in the great bend of the Tennessee river were coveted by North Carolina and South Carolina, but it was finally determined that they belonged to Georgia. Meanwhile, the politicians conceived a plan for their absorption; and among them were: the North Carolinians, Richard Caswell afterwards governor, James Glasgow and William Blount and probably Patrick Henry of Virginia who was represented by Colonel Martin, the Virginia agent to the Cherokees, and in furtherance of the scheme appointed agent for North Carolina. Martin succeeded in purchasing the lands from the Indians, and Blount wrote, "cheap enough," and further indicated it was immaterial whether the title was in South Carolina or Georgia as he would attend the assemblies of both and had no doubt of his success.⁸ Evidently, the politicians of both states were in collusion for the legislature of Georgia promptly appointed seven commissioners who were to grant warrants of survey, appoint militia officers, inspect the land and report to the legislature. Those appointed were: Lachlan McIntosh Jr., William Downer, Stephen Heard, John Moore, John Donelson, Joseph Martin and John Sevier. John Sevier was appointed colonel of the militia, John Donelson lieutenant colonel, and Valentine Sevier Jr. major. John Donelson was appointed surveyor; John Sevier entry taker; William Blount, Lachlan McIntosh, John Morell, Stephen Heard, William Downer John Sevier, John Donelson, Charles Robertson, Joseph Martin and Valentine Sevier Jr. justices of the peace; and Joseph Martin was recommended for Indian agent. Valentine Sevier Jr. was chosen representative in the legislature of the county which was called Houston, but he was denied his seat.⁹

While the hostile attitude of the Indians put a stop to the project, the rich lands in the bend of the river continued an enticement to speculators and politicians whose evil influence was manifest in the new state movement.

⁷ *Ibid.*, 712.

⁸ Draper Mss. II, Vol. 4, No. 17.

⁹ *Georgia Revolutionary Records*, 111, 525, 536, 564, 565; II, 739; Ramsev, 377; Haywood, 172.

CHAPTER IV

THE AUGUST CONVENTION

The cession by North Carolina of her western territory left the inhabitants beyond the mountains political orphans, at least they so considered themselves; and anticipating the acceptance of the cession by Congress as certain, considered themselves a part of and under the protection of the Confederation. While North Carolina had retained jurisdiction over the region until its acceptance by Congress, the people of East Tennessee had little expectation it would actively continue to exercise the prerogatives of government, and rightly concluded they would be left in a state of chaos and confusion. No other alternative in their opinion being open, they determined to institute a government of their own; and as the militia was the best organized part of their society, it took the initiative and elected two men from each captain's company who met in their respective counties and chose delegates to a general convention to be held at Jonesborough. This convened August 23, 1784, and was composed of the following: Charles Robertson, William Murphey, John Sevier, Joseph Wilson, John Irwin, Samuel Houston, William Trimble, William Cox, Landon Carter, Hugh Henry, Christopher Taylor, John Chisholm, Samuel Doak, William Campbell, Benjamin Holland, John Bean, Richard White and Samuel Williams of Washington county; Joseph Martin, Gilbert Christian, William Cocke, John Manifee, William Wallace, Stokely, Donalson, John Hall, Samuel Wilson and William Evans of Sullivan county; Daniel Kennedy, Alexander Outlaw, Joseph Gist, Samuel Weir, Asahel Rawlings, Joseph Bullard, John Maughon, John Murphy, David Campbell, Archibald Stone, Abraham Denton, Charles Robinson and Elisha Baker of Greene county. They were most of the prominent and influential leaders of East Tennessee.

The convention elected John Sevier, president and Landon Carter, clerk; and appointed as a committee on public affairs:

Messrs. Cocke, Outlaw, Carter, Campbell, Manifee, Martin, Robinson, (Robertson), Houston, Christian, Kennedy, and Wilson.¹ Diverting from the trend of our narrative, it may be interesting to consider the individual members of this important committee. Charles Robertson has been heretofore mentioned. William Cocke was born in Amelia county, Virginia of one of the older families of that colony. In 1748 and after his marriage to Sarah Martin he removed to the Holston region and settled in Sullivan county, and was captain of a militia company. He accompanied the Henderson settlers to Boonesborough and was one of the organizers of the Transylvania government and a member of its legislature. Returning to the Holston, he was elected to the legislature of North Carolina and in 1782 was admitted to the bar of Sullivan and Washington counties, with little preparation as a lawyer. Next to Sevier, he was the most influential leader in the new state movement, served in the legislature of Franklin and on the admission of Tennessee was its first member of the United States senate, serving from 1797 to 1805. Subsequently he was a judge of the Tennessee courts but was impeached. He died at Columbus, Mississippi, where he was acting as United States agent to the Cherokee Indians. Cocke was a remarkably fluent speaker and the most popular orator of the Southwest in his time.

Alexander Outlaw was born in North Carolina in 1738, and removed to the Nolachucky settlements in 1783. He was prominent in the Franklin movement as a military and civic leader. Outlaw was admitted to the Knox county bar in 1792 and served in the Tennessee constitutional convention. He became one of the most extensive land owners in the Southwest and did in Alabama in 1826.

Landon Carter was a son of John Carter mentioned elsewhere and was educated at Liberty Hall, now Davidson College, Mecklenburg county, North Carolina. He was considered the best educated man among the leaders of Franklin, gained considerable reputation as a soldier, and held important positions under North Carolina, Franklin and Tennessee. He died in 1800.

David Campbell, a younger brother of Colonel Arthur Campbell, and born in 1750 came as a trained lawyer from Virginia and located in Greene county prior to 1783. He had

¹ Haywood, 149, 150; Ramsey, 285, 286; Williams, 29, 30.

been a major in the Continental Army, was the chief judicial officer of the State of Franklin, served as a judge of the Superior Court of Tennessee and died in 1812.

John Manifee settled in Sullivan county. He was speaker of the Franklin Assembly in 1787 and subsequently held important positions under the government of Tennessee.

Joseph Martin was born in Albermarle county, Virginia in 1740. After a tumultuous career as a soldier and pioneer, he was appointed by Governor Patrick Henry, Virginia agent to the Cherokees and made his home at Long Island. He represented Sullivan county in the North Carolina Assembly and in 1785 as commissioner of the United States negotiated the unpopular Hopewell Treaty with the Cherokees. As North Carolina brigadier general of the Washington District, he conducted the unsuccessful expedition against the Chickamaugas. While active in the early new state movement, he soon became estranged from it and is ranked as one of the leading opponents of the State of Franklin. His greatest accomplishment was as an Indian negotiator. He returned to his native Virginia and held several offices under it. Colonel Martin died in 1808.

Rev. Samuel Houston was born in Rockbridge county, Virginia in 1758 and received a liberal education. During the Revolution he participated in the Battle of Guilford Court House and after his service in the war became a Presbyterian minister, and as such was pastor of Providence Congregation in Washington county. Houston returned in 1789 to Virginia where he died in 1839.

Gilbert Christian, one of the most admirable characters of the Franklin movement was born in Augusta county, Virginia about 1734. He distinguished himself as a soldier in the Indian wars and at King's Mountain. He settled on the Holston river near the present Kingsport. A nephew of Colonel William Christian, he served under him in his campaign against the Cherokees in 1776; and as a major in Colonel Arthur Campbell's expedition in 1780-81. He was speaker of the Franklin senate in 1786 and was a steadfast friend of Sevier in his most trying days. He died at Knoxville in 1793.

Daniel Kennedy was a Virginian born about 1750, who settled in Greene county and marched as a lieutenant under John Sevier to the Battle of King's Mountain where he won distinction. As a member of the North Carolina Assembly he

was instrumental in the creation of Greene county and was the clerk of its first court. Under the Franklin government he was a member of the Council of State, a brigadier general and one of the commissioners who negotiated the Dumplin Treaty with the Cherokees. He was t man of ability and devotion but of modest ambition. Colonel Kennedy died in 1802.

Returning to the action of the committee, it submitted a plan approved of by the convention the salient features of which were: that the counties of Washington, Sullivan and Greene form themselves into an association under the laws of North Carolina not incompatible with the creation of a new state; that they petition Congress to accept the cession and endorse their formation of a new state; and that if any contiguous part of Virginia desires to join them it shall be accepted if approved by Virginia.² A declaration was then drawn up and submitted by a committee composed of Messrs. Cocke and Hardin setting forth the purpose and justification of their movement, and the advantages to be derived by a separation. Incorporated in this report and following the declaration were four articles, the first of which was: "That we agree to intrust the consideration of public affairs and the prescribing of rules necessary to a convention to be chosen by each company as follows, that if any company should not exceed thirty, there be one representative; and when it contains fifty there be two; and so in proportion as near as may be and that these regulations be reviewed by the association." The second article provided for the appointment of a proper person to present their memorial to Congress. These reports were concurred in and the next convention was fixed at Jonesborough September 16, 1784. There appears to be some confusion of time as to when these articles were adopted. The necessity for law and order in these frontier communities compelled recourse to various experiments in self government, which were instituted about the same time in other parts of the country.⁴

The southwestern part of Virginia settled by a different people with few family ties binding them to the wealthy eastern portion of the state was bound by kinship and easy communica-

² Haywood, 131; Ramsey 287; Williams 31.

³ Haywood, 151, 152; Ramsey 288, 289.

⁴ Among these were Transylvania,, Fair Play Republic on West Branch of Susquehanna, Wyoming settlers, and Vermont.

tion with the Watauga region and consequently sympathized with its separatist aspirations. The first prominent Virginian to openly avow separation was Colonel Arthur Campbell. Born in Augusta county, Virginia in 1742, he was captured, when a lad of fifteen, by the Indians and taken to Detroit where during his detention, it is said he was instructed by the Jesuit fathers and acquired considerable education. Escaping, he returned to Virginia, and subsequently removed to the Holston region in what became Washington county, Virginia, settling on a large plantation called the "Royal Oaks." General William Campbell who commanded the Americans in the Battle of King's Mountain was his cousin. He served as county judge, commander of the militia and busied himself in the affairs of Kentucky and Tennessee more as an adviser and negotiator than as an active participant. In 1782, evidently voicing considerable sentiment in his section, Colonel Campbell issued a circular proposing that deputies be chosen in the five southwestern counties of Virginia and in Washington and Sullivan counties, North Carolina, to meet at Abingdon in April, to take such measures as may be proper for the interest and safety of their constituents as members of the American Union.⁵ It does not appear any action was taken on his proposal but Campbell continued to urge his scheme, which was supported by some influential men in southwestern Virginia, and it occasioned the reference to Virginia annexation, contained in the resolutions passed by the convention at Jonesborough in 1784.

There seems to be some confusion as to time and proceedings of the conventions held by the new state people, but be it as it may, it was decided that each county should be represented by five delegates; and it is said that in the convention held in August, there was complete unity of action and sentiment among the leaders.⁶ But Ramsey says (page 290) "For some reason not now distinctly known, the convention did not meet till November and then broke up in great confusion." Evidently, some seeds of dissension had already been sown probably the result of conflicting opinions or rival ambitions. In the following chapters we shall see how this internal strife grew and ruined the new state movement.

By the time the November convention met at Jonesborough,

⁵ Williams, page 6.

⁶ Haywood, 155; Ramsey 290.

three parties had developed, one for a constitution which had been proposed by the minority, the second for the plan proposed by the committee of the convention, and a third which thought it best to return to North Carolina which was about to repeal the act of cession.⁷

⁷ Haywood, 153.

CHAPTER V

THE FIRST CONSTITUTIONAL CONVENTION

After the cession, state pride asserted itself in North Carolina, and a decided majority of the new legislature favored its repeal. It met at Newbern in October, and repealed the act of cession by a vote 37 to 22 in the House of Commons, and 19 to 11 in the senate but the result was protested as a breach of moral and political honesty, and as a nullity, the original cession being irrevocable on the part of the state. The legislature also formed the four western counties into a separate judicial district called the Washington District and appointed David Campbell judge of the Superior Court. The militia in the four counties was made a brigade of which John Sevier was appointed brigadier general.¹

The new state convention met at Jonesborough December 14, 1784 and was composed of the following delegates: John Sevier, William Cocke, John Tipton, Thomas Stewart and Rev. Samuel Houston of Washington county; David Looney, Richard Garrison, Moses Looney, William Cage, and John Long of Sullivan county; James Reese, Daniel Kennedy, John Newman, James Roddy, and Joseph Harding of Greene county. This is the list given by Haywood and is the full complement of five from each county as provided for in the call made by the August convention. Williams thinks it incomplete and suggests other probable members. Vizualize in your minds this crude convention, giving birth to a new state, of typical border men attired in the rough dress of the frontier who squatted on the bare benches of the little log court house at Jonesborough, that December morning long ago. But they were brave, bold, honest men of good understandings. The Rev. Mr. Houston suggested the proceedings be opened with prayer and we may well imagine he made the little court house ring with his earnest appeals to God, and that the sound of his voice carried far beyond to the

¹ Haywood 155; Ramsey 290; Williams 36.

assembled throng without. John Sevier was president of the convention and early in the sessions William Cocke made a motion that the convention should declare itself for or against a new state and in its support made an impassioned speech. This unlettered frontier lawyer with God given eloquence never failed to move a crowd when he harangued them, and for half a century he remained the foremost popular orator of the southwest. His resounding voice pictured the benefits and blessings to be derived by the creation of a new state, scored the inertia and reaction of the east and denounced North Carolina for casting them adrift in an uncharted political sea. It was Sevier's executive ability which guided the new state and Cocke's eloquence which inspired its support by the people. Ramsey seems to think the motion was made at the August convention but Williams points out this is improbable because several voted who were not members of the August convention and are on Haywood's December list. The vote was 28 to 15 in favor of a new state.² Haywood says: (page 154) "The convention again met at Jonesboro on the 14th of December 1784 and though at this time fully apprised of the repeal of the cession act proceeded without any regard to it." And he further states: (page 155) "They agreed upon the form of a constitution under which the new government should be organized and act till it should be rejected or received by a new convention which they directed to be elected and to meet at Greeneville on the 14th of November, 1785."

Haywood and others persist in calling the new state "Frankland" and their persistence is probably due to their adherence to the minority in the convention who voted for the name "Frankland." However, Ramsey has established the fact that from the beginning it was called Franklin,³ which he did by a letter written to him by Rev. Samuel Houston under date of March 20, 1838, wherein it is stated: "A variety of names was proposed for the new commonwealth. Some were for calling it Franklin in honor of Benjamin Franklin of Philadelphia, others Frankland as the land of freeman. But it was decided by a majority (small) in favor of calling it Franklin." Moreover, in 1904, a copy of the constitution, certified by Thomas Talbot, clerk, was discovered in a small paper box in the office of the Insurance Commissioner at Raleigh, which presumably was trans-

² Ramsey, page 288.

³ *Ibid.*, page 324.

mitted to the North Carolina authorities shortly after its adoption; and is designated as the "Constitution of the state of Franklin," the only name used throughout the body of the instrument itself.⁴ This constitution begins with a declaration of independence, wherein it is avowed that the constitution of North Carolina declares it shall be justifiable to erect new states with the consent of the legislature which is implied by the act of cession, "which has thrown us into such a situation, that the influence of the law in common cases was almost a nullity and in criminal jurisdiction had ceased entirely." This declaration of independence is followed by a declaration of rights containing twenty five sections setting forth the usual rights and privileges of individuals. The constitution "agreed to and resolved upon by the representatives of the freemen elected and chosen for that particular purpose in convention assembled at Jonesborough, the 17th December Anno Dom. 1784," contains some unique features. It imposes a property qualification for voters and officer holders and provides for a senate of three members from each county until there be ten counties when there shall be one from each county; and a house of representatives composed of four members from each county until there be ten counties when there shall be two from each county; and also provides for the election by the senate and house of a council of state composed of five members. Senators, representatives and councilors were to be elected annually, and the governor chosen by the legislature was to be elected for three years and ineligible for re-election. Provision was made for the appointment of other usual officers by the senate and house. A unique feature prohibited a clergyman of any denomination from being a member of the senate and house and prescribed that no person who shall deny the being of God or the truth of the Protestant religion or the divine authority of the Old and New Testaments shall be capable of holding public office. A laudable provision required the legislature to establish schools and one or more universities. Within a year, the people were to choose a convention for the purpose of adopting or altering the constitution.

The vote in favor of forming a new state discloses considerable opposition to it and indicates the leader of the dissentients was John Tipton and that joined with him were such well known leaders as Kennedy and Campbell. Even John Sevier wavered.

⁴ Williams, *Appendix*, page 339 contains a copy of the instrument.

Colonel Joseph Martin who had been a member of the August convention and had just returned from the sessions of the North Carolina legislature which had repealed the act of cession wrote Sevier under date of December 31, 1784,⁵ informing him of what had been done by the Assembly and that he had a letter from Governor Martin which he was unable to enclose having mislaid it. Colonel Martin who had been an early participant in the new state movement, apparently conceiving any further activity would jeopardize his employment as North Carolina agent to the Cherokee and Chickamauga Indians, was now opposed to independence, and suggested that Sevier defer further action until he was better informed. It seems Sevier was greatly influenced by the governor's letter which was later produced and by his appointment by North Carolina as brigadier general of the militia, for Haywood says⁶ "Colonel Sevier at Jonesborough where the electors had assembled took from his pocket the letter from Colonel Martin, explained what had been done by North Carolina and stated: "The grievances complained of are redressed and my recommendation to them is that they proceed no farther in their designs to separate from North Carolina." Haywood fixes this time before December 14th when the deputies were elected to that convention, which is a mistake as the Martin letter was not written until December 31st. Mr. Williams suggests that he read this letter at the Washington county court day, the first Monday of January 1785, which seems highly probable. That Sevier had at this time little enthusiasm for independence and was striving to free himself from the dangerous entanglements of the new state movement is indicated by the letter he wrote to Colonel Daniel Kennedy dated January 2, 1785, wherein he recites that he had just received information of the formation of the Washington District which he had the honor to command as general, and says: "I conclude this step will satisfy the people with the old state and we shall pursue no further measures as to a new state."⁷

Sevier was, however, dissuaded from abandonment of the new state by the eloquence of Cocke who had an interview with him and overcame all his scruples or fears.⁸

⁵ *Draper Collection*, Vol. 2, page 76.

⁶ Haywood, page 154.

⁷ Ramsey, page 291.

⁸ Haywood, page 154.

Governor Martin in his letter expresses great concern over the white intrusion of Indian lands which the Cherokees had complained of; and insists that Major Hubbard of Greene county who had murdered Butler, a Cherokee Indian be apprehended and lodged in jail. In another communication he desires that Sevier give him full information, through Major Samuel Henderson, of the Butler murder, of the new state movement, and argues that the North Carolina legislature had done all possible to allay discontent.⁹

⁹ Ramsey, pages 305-306.

CHAPTER VI

NEW STATE GOVERNMENT ESTABLISHED

Provision having been made in the constitution for the establishment of a temporary government, the convention ordered an election of members of the legislature according to the procedure in North Carolina, and that when elected they should meet and institute the new government.¹ The first session of the General Assembly of the State of Franklin met at Jonesborough early in March, 1785 and continued until the twenty first, during which time it enacted the needed legislation for the formation of the new government. Most of the records and the list of members are lost, but it is known that Landon Carter was speaker and Thomas Talbot clerk of the Senate; and William Cage speaker and Thomas Chapman clerk of the House of Commons. Landon Carter, son of Colonel John Carter hereinbefore noted, was born in Virginia and with his father located at Watauga. He was well educated at Liberty Hall in Mecklenburg county, North Carolina, served as an officer in the Revolution and Indian wars; and as an official under the governments of North Carolina and Tennessee. He was an ardent supporter of the new state movement, and possessed a large landed estate which he inherited from his father who was the richest man west of the mountains. He died June 5, 1800. William Cage was born in Virginia in 1745, removed to Chatham county North Carolina and served as a major during the Revolution, after which he went to Sullivan county and became a leader in the formation of the new state of Franklin of which he was the first treasurer. He was succeeded as speaker by Joseph Hardin who was born near Richmond, Virginia, April 18, 1734 and before the Revolution removed to Tryon county, North Carolina, which he represented in the Provincial Congress. Driven from his home by the Tories, he settled in Greene county. He was faithful to the new state under which and Tennessee he held positions of trust. The legis-

¹ Ramsey, 293.

lature promptly elected John Sevier governor, David Campbell judge of the Superior Court, and Joshua Gist and John Anderson assistant judges. Some of the important legislation enacted was: the establishment of the militia, erection of Spencer county (now Hawkins) procuring a state seal (never obtained), erection of Caswell county (now Jefferson), the erection of Sevier county, tax levying laws, fixing salaries of state officers, the erection of Wayne county (now Carter), the erection of Johnson county, the establishment of county courts, and an act for the promotion of learning in Washington county.

Under the last act Martin Academy was established by Rev. Samuel Doak, who was born of Scotch Irish ancestry in Augusta county, Virginia. He graduated from Princeton College and became the pioneer of education west of the mountains. As a member of the Presbytery of Hanover, he first came to Sullivan county, thence removed to the forks of the Holston and Watauga rivers where he remained for two years and was then induced to locate on Little Limestone creek below Jonesborough by the following incident. Travelling in the vicinity, he unexpectedly came upon a group of settlers laboring in the forest. Informing them he was a minister, they requested him to preach. He immediately complied and wheeling his horse around so as to be a sort of pulpit in front of him, he began his discourse and so favorably impressed them by his exhortation, that they beseeched him to settle among them. There he organized Salem church and Martin Academy in a rough log cabin on his own farm near the site of the later Washington College. In this crude structure without floor or windows and with no equipment but slab benches, education began in the southwest.

The state officers appointed were: Landon Carter, secretary of state; William Cage, treasurer; Daniel Kennedy and William Cocke, brigadier generals and Stockley Donaldson, surveyor general. The latter was born in Virginia and was a surveyor and land speculator. In his land speculations he was associated with Governor Caswell and during his life is said to have acquired about half a million of acres of land. He was active in the Franklin movement and besides being surveyor general was speaker of the House of Commons. The Council of State was composed of: William Cocke, Landon Carter, Judge David Campbell, Daniel Kennedy, Colonel Taylor and Francis A. Ramsey. The latter was born at Gettysburg, Pennsylvania, May

31, 1764, and induced by his uncle, John Alexander, who lived near the present village of Limestone in Washington County, located there in 1783. He was fairly well educated and although only nineteen was a qualified surveyor. Being a good penman and scholar he was chosen secretary of the Franklin conventions and meetings and this probably accounts for his being a member of the Council of State when so young. He was also clerk of the Superior Court of Washington county. At first a resident of Washington county, he later removed to Knox county, where he died November 13, 1820. He was the father of James G. M. Ramsey, author of an early and valuable history of Tennessee. County courts were established with James Sevier clerk of Washington county court, John Rhea clerk of Sullivan county court, Daniel Kennedy clerk of Greene county court, Thomas Henderson clerk of Spencer county court, and Samuel Weir clerk of Sevier county court. The annual salaries of the state officers were fixed at: governor, two hundred pounds, attorney general twenty five pounds for each court he attended, judge of Superior Court one hundred and fifty pounds, assistant judges twenty five pounds for each court, secretary of state twenty five pounds and fees, treasurer forty pounds, and each member of council six shillings per day when in actual service. It was provided that these salaries were "to be paid in specific articles as collected and allowed by the state for the same or in current money of the state."² The provision for payment in specific articles was made because there was little or no money in circulation and it was enacted that taxes might be paid in articles at the value fixed by law, of which some of the enumerated articles and their values were: linen three shillings and six pence per yard, beaver skins six shillings, otter skins five shillings, bacon six pence per pound, bees-wax ten shillings per pound, rye whiskey two shillings and six pence per gallon, peach or apple brandy, three shillings per gallon, maple sugar one shilling per pound.³ This enactment judged by modern conditions seems amusing, but it clearly illustrates the primitive economic usages of the border settlements and designates the most important products of the country and their current values. By a system of barter the commerce of the country was carried on, the merchants exchanging store goods for products which they carried to

² Haywood, 155, 161, 162, 163, 164; Ramsey 290 to 296.

³ Haywood, 163.

Philadelphia or Baltimore and traded for manufactured goods. This barter currency possessed real intrinsic value, more than can be said of the rag money manufactured and issued by highly organized modern inflationary governments.

The Franklin legislature authorized Governor Sevier, Alexander Outlaw and Daniel Kennedy to make a treaty with the Cherokee Indians, which they accomplished at the house of Major Henry at the mouth of Dumplin creek on the French-Broad river, May 31, 1785. By this treaty, the Indians ceded all the territory south of the Holston and French-Broad rivers and east of the ridge dividing the waters of Little River and the Tennessee.⁴

Governor Martin in his instructions to Major Henderson had indicated hope the new state movement would proceed no further and the adoption of the constitution only a temporary measure obviated by the repeal of the cession act;⁵ but when he learned the Franklin Assembly had instituted a complete government he was incensed and convened the legislature to meet at Newbern June 1st. This was followed by a lengthy manifesto addressed to the inhabitants of the counties of Washington, Sullivan and Greene. In it he replied to the letter written him March 22, 1785 by William Cage speaker of the House and Landon Carter, speaker of the Senate wherein they answer the letter written by Martin to Sevier and transmitted by Henderson.⁶ The manifesto begins with consideration of the general statements contained in the Carter letter; asserts that the act of cession was supported by some representatives from the western counties who are now leaders in the revolt; justifies the repeal of the cession act as being revocable, and a greater gift to Congress than that of any other state; mentions kindness to western people by creation of a criminal court and militia district with a brigadier general; defends the stoppage of Indian goods on the ground if the cession took place they were to be distributed under the regulations of Congress; denies that this delay caused Indian hostilities, and asserts they were caused by trespasses of the western people on their lands and by the Butler murder; insists that the vacant territory should be reserved for payment of the public debt of the state; accuses the insurgents

⁴ Ramsey, 299.

⁵ *Ibid.*, 307.

⁶ For copy of letter see Williams, page 63.

of seizing the public revenue of North Carolina and appropriating it to different purposes; and contends that all the facts evince that a restless ambition and lawless thirst of power have inspired their enterprise. Martin justifies his manifesto as an effort to reclaim such citizens who by specious pretences and the acts of dangerous men have been seduced from their allegiance; to restrain the wavering ones; and to confirm the attachment and affection of those who adhere to the old government, whose fidelity has not yet been shaken. He admonishes the leaders to desist from their rash undertaking, intimates that a continuance may result in the spilling of blood and reminds them Congress can not countenance their separation until North Carolina has given her consent. An appeal is made to their patriotism and it is intimated that a future legislature will redress any grievances.⁷

Ramsey speaking of the manifesto says:⁸ "A document such as this emanating from the highest authority known to the sovereignty of North Carolina, conceived in language and spirit at once conciliatory and respectful, though earnest and firm could not be wholly disregarded, and was not without its influence upon the reflecting and considerate." Copies of it in manuscript were distributed and read among the citizens of the new state." Governor Martin sent a copy of the manifesto together with a letter to John Tipton, who industriously distributed the manifesto and acknowledged receipt of the letter and in his acknowledgment stated: that he felt himself bound to obey the governor's commands, "both from the zeal I bear the old State and towards your Excellency I shall continue to discountenance the lawless proceedings of my neighbors."⁹

John Tipton, leader of the opposition to the new state was born in Baltimore county, Maryland in 1732 and when a young man settled in Shenandoah county, Virginia. He served in Lord Dunmore's War and in the Revolution and was a member of the Virginia House of Burgesses. In 1782, he removed to East Tennessee and located near the present Johnson City where he owned a large farm. A member of the Franklin Constitutional Convention, he voted against separation, which would indicate he was opposed to the new state movement from the beginning.

⁷ Ramsey, 309.

⁸ Ramsey, 313.

⁹ *North Carolina Records*, XXII, 648.

He was a member of the North Carolina Senate in 1785 and 1788 and served in the convention which voted against the ratification of the constitution of the United States. After Tennessee was admitted to the Union he served in the state legislature. Tipton was a man of ability but passionate and rash in conduct.

In answer to the Martin manifesto, Governor Sevier wrote, under date of May 14th to General Richard Caswell who succeeded Martin as governor, refuting the charges made against the new state and particularly asserting forty murders had been committed by the Indians because of the stoppage of the goods promised them for their lands; denying that any part of the public money had been diverted and claiming the same was still in the hands of the sheriff and collectors; declaring the so-called Butler murder was an act of self defense on the part of Hubbard who shot him; and maintaining that no notice could be taken of the repeal of the cession act because they had declared their separation before the repeal.¹⁰ This last statement indicates that the resolution to form a separate and distinct state was passed at the August meeting, as Ramsey surmised, and not at the December convention as Williams has asserted.

Three days after writing this letter, Governor Sevier issued a proclamation, headed: "State of Franklin, A proclamation and God Save the State," wherein he designated himself as "John Sevier Esq. Governor and Captain General in and over the said state," and asserting the Martin manifesto "is circulated in order to stir up insurrection" and concluding: "Notwithstanding, we have the fullest confidence in the true attachment and fidelity of the good citizens of this state, I have thought it proper to issue this my Proclamation strictly enjoining all and every the good citizens of this state, as they will answer the same at peril, to be obedient and conformable to the laws thereof."¹¹

In due time, Governor Caswell replied to Sevier's letter in a friendly tone without declaring any policy except an intention to forward the Indian goods as soon as possible.¹² This would seem to conclude the paper war which had been conducted with little asperity on either side. The manifesto probably encouraged those who were against the new state and restrained those who

¹⁰ Ramsey, 314.

¹¹ *Pennsylvania Packet*, August 9, 1785.

¹² Ramsey, 316.

were neutral from further committing themselves; but the great majority seemed steadfast in their allegiance to Franklin. North Carolina had in the past neglected and ignored them; and her prominent men in the Assembly abused them with vile epithets such as: "The inhabitants of the Western Country are the off-scourings of the earth, fugitives from justice and we will be rid of them at any rate." Moreover, Martin had in his manifesto intimated that North Carolina in some future time might agree to separation; and it was logical to argue from this, "Why not now, when we have an organized government operating, efficiently and effectually administering the law? The inquiry naturally followed: Why wait and go through the agony of organizing another government in the future? It will be noted that most of the Franklin leaders were from Virginia and naturally had no love for North Carolina and were eager at the first opportunity to cast off an allegiance they detested. In the adjoining southwestern counties of Virginia separation from that state was being advocated with vigor, and the Franklin leaders optimistically contemplated a union with them. Discerning men felt, some with keen regret, that the region west of the Alleghenies when the population warranted was bound to break away from the east.

Perhaps, the want of population, the poverty of the country, and the lack of competent leaders, as suggested in the manifesto, were the most powerful arguments against immediate separation; but the principal cause of Franklin's failure was strife among its own leaders. In the beginning but few were against the new state, yet these few under the aggressive leadership of John Tipton continually augmented their numbers by appeals to local prejudice and the ambitious envy of disgruntled politicians. It has been suggested that had Martin continued as governor, his more aggressive opposition would have welded together the discordant elements that destroyed Franklin. Certainly, Caswell who followed him was more conciliatory. He was a land speculator and was interested with Colonel Joseph Martin, Sevier and others in the vast tract of land in the great bend of the Tennessee river. This selfish personal interest and close business association with some of the Franklin officials made him as lenient as it was possible for a governor to be; and naturally attracted to him and his administration those who were inclined to be neutral. His liberal and tolerant course and promise of future indulgence

and oblivion for past offenses won over those who had been dazzled by the charm of a state of their own, but who had a horror of rebellion and cherished respect for lawfully constituted authority.

These various viewpoints though increasing discontent did not seriously and immediately impair obedience to Governor Sevier, but these elements of discord portended the final decay and ruin of the new undertaking.

William Cocke had been appointed Franklin's representative to the Congress of the United States and he immediately departed for New York and in May, 1785 presented that body with the memorial of the State of Franklin, signed by Landon Carter, speaker of the Senate and William Cage speaker of the Commons.¹³ It recited the chief grievances: the stoppage of the Indian goods whereby the Cherokees were provoked into hostilities, that by the cession act they were impelled to avow their independence and erect their state, doubted that North Carolina had the right to repeal the cession act, and asserted that the cession was the assent of North Carolina to the formation of their country into their new state which they petitioned Congress to recognize and accept. Congress appointed a committee composed of Messrs. King, Johnson, Grayson, and McHenry which reported that no repeal could make void the act of cession so as to annul the right of Congress to accept the territory within one year the period stipulated for acceptance and recommended that Congress accept the cession of western territory made by North Carolina. After debate the report of the committee failed of adoption, the required two thirds lacking, only seven states having voted in the affirmative. Another paragraph of the report to wit, that North Carolina evince the same good sentiments by repealing her act of 20th of November, 1784 (repeal of the cession act), and instruct her delegates to execute a deed for the ceded territory, was adopted by a unanimous vote.

It may be interesting to speculate but hard to determine what motives actuated the various members of Congress. The Virginia delegates were, perhaps, swayed by fear of loss of their own western counties, but what inducement influenced Maryland to vote against the report and Massachusetts to abstain from voting are unanswered questions. The vote of Georgia in the affirmative may have been obtained by the land speculators

¹³ State Department M.S.S., Library of Congress.

interested in the territory within the great bend of the Tennessee which she claimed.

The second session of the Franklin legislature convened at Jonesborough August 7, 1785. The speaker of the Senate was James White and R. Mitchell was clerk. The House of Commons elected Stoakley Donelson speaker and Francis A. Ramsey clerk.¹⁴ The early writers pass the session by as of little importance, save as amplifying what already had been done, although a law is mentioned encouraging an expedition to take possession of the territory within the great bend of the Tennessee river under titles derived from Georgia.¹⁵ It is probable this session fixed or reaffirmed the number of delegates to the constitutional convention to be held in November as follows: Washington county 15, Sullivan county 12, Greene county 12, Caswell county 8, Sevier county 6, Spencer county 5, Wayne county 4, Blount county 2.¹⁶ This convention met December 14, 1785 at Greeneville, which had but recently been laid off and was a rude hamlet of a few scattered cabins erected among the stumps of the unremoved charred tree trunks that obstructed the streets. It contained a blacksmith shop, store and tavern where the delegates ate, drank and lodged at the following modest rates: diet one shilling, liquor half pint six pence, pasture and stable six pence, lodging four pence, corn per gallon eight pence, oats per gallon six pence. The primitive conditions in the new state may be judged by the fact that the court house where the delegates met was built of unhewn logs covered with clapboards and was without a floor or loft. It stood in the lower corner of the present court house lot and was without a door or windows. As the regular capitol of the new state which it became, it housed the House of Commons, while the Senate met at Carr's tavern, a little more pretentious and comfortable place.¹⁷

It is said John Sevier was president of the convention and Francis A. Ramsey clerk, but no list of the delegates exists. It was assembled for the purpose of adopting or altering the constitution proposed by the Jonesborough convention. Haywood says: "From different parts of the new state the people forwarded instructions which showed there was a great diversity

¹⁴ *North Carolina State Records*, XXII, page 727.

¹⁵ Ramsey, 318.

¹⁶ *Pennsylvania Packet*, February 17, 1786.

¹⁷ Ramsey, 334.

of sentiment among them.”¹⁸ The convention after debate appointed a committee, which taking the constitution of North Carolina as the ground work, attempted to incorporate therein certain provisions in other constitutions and the recommendations of the citizens, thus producing a hodgepodge entirely impracticable and unworkable which the convention rejected in its entirety.¹⁹ “The convention having rejected the constitution as submitted, and adopted that of North Carolina under which the Franklin government had thus far been administered it was hoped that the public sentiment would be propitiated.”²⁰ “The convention rejected and adopted the modified North Carolina Constitution doubtless in the form of the provisional constitution under which the state was being governed at the time.”²¹

It may be surmised that much of this diversity of opinion was occasioned by the declarations of the Presbyterian preachers who were predominate west of the mountains and who insisted that the important qualification for office holding was perfect orthodoxy. Upon the adoption of the provisional constitution, some of those, who had edged their way into the convention and had been more or less against the new state, dissented and protested the rejection of the committee’s report. Among them were: David Campbell, Samuel Houston, John Tipton, James White and Joseph Tipton.²² The adoption of the constitution did not end the dispute which became more acrimonious, and the dissenters appealed to the people in widely circulated pamphlets. An element of religious differences entered into the controversy. The Presbyterian preachers had well established themselves in the western counties and being the only well educated men their influence among the people was not inconsiderable. The Rev. Samuel Houston had had a large share in forming the constitution reported by the committee and so shaped it that the franchise was to be restricted to professed believers in all the fundamental principles of Protestant orthodox Christianity. Another provision ridiculous and repugnant to common sense was a clause prohibiting any minister of the gospel, attorney at law, or doctor of physic from being a member of the Assembly, thereby excluding the most intelligent classes in the

¹⁸ Haywood, 170.

¹⁹ *Ibid.*

²⁰ Ramsey, 335, 336.

²¹ Williams, 96.

²² Haywood, 171.

community.²³ The rejected constitution substituted the name Frankland for Franklin the name under which the new state had been operating. Rev. Hezekiah Balch, who had spoken before the convention against the rejected constitution, took up the cudgels, during the controversy after the rejection, and replied to Houston's printed pamphlets with much asperity, and the war of words assumed a bitterness which only clericals can give to an argument.

Haywood who lived during the time when Franklin with all its vicissitudes was fresh in the minds of the people speaks with certainty when he says: "A great outcry was raised against the report and its friends vindicated it by an appeal to the people in which a wounded spirit is very discernible." He then proceeds in an amiable way to dissect the contents of the printed pamphlets and enumerates the excuses, explanations, promises, denunciations and appeals.²⁴

On the whole the controversy appears to have been engendered by the usual attitude of a disappointed and defeated minority; but nevertheless, it irritated the sores of disgruntled ambition and wounded pride of opinion into a violent eruption of discord which ultimately destroyed the new state.

²³ Haywood, 171-172; Ramsey, 335-336; Williams, 94 to 97.

²⁴ Haywood, 171-172.

CHAPTER VII

THE FAILING FORTUNE OF FRANKLIN

During the early part of 1786, the rule of the new state was generally submitted to without open opposition, although there were rumblings of discontent. Perhaps, the argument against it which weighed most with considerate men was Franklin's lack of any legal status. The failure of Congress, late in the spring of 1785, to accept North Carolina's cession left no doubt of that state's continued jurisdiction. By the act of cession, the western counties were left civically adrift and probably were justified in setting up a government of their own and continuing it until the failure of Congress to accept the territory; but after this that justification no longer existed and the new state movement was legally a rebellion against the state of North Carolina.

Many other factors influenced men. In 1785, Congress, for the first time, assumed the power of making a treaty with the Cherokees, and by the Treaty of Hopewell made by its commissioners, Benjamin Hawkins of North Carolina, Andrew Pickens of South Carolina, Lachlan McIntosh of Georgia and Joseph Martin established the western line of the Indian grants as beginning near Cumberland Gap, thence running southwest to a point on the Holston river three miles west of the present Rogersville, thence northeasterly to Chimney Point Mountain, the present corner of Greene, Sullivan and Hawkins counties, thence to a point on the Nolachucky river four miles southeast of Greeneville, and thence southerly six miles to the Great Smoky Mountains.¹ This boundary obliterated the lines established by other treaties and particularly that made at Dumplin creek and so contracted the limits of Franklin that much of its territory and its capital Greeneville were within the Cherokee domain. Any settler who had intruded beyond this, a provision of the treaty provided, "the Cherokees may punish him or not as they please." As there were hundreds of settlers beyond the

¹ Ramsey, 336-337; Williams, 99.

Hopewell Treaty line, great indignation was felt against North Carolina which had furnished two of the commissioners, Hawkins and Martin and it was thought they had been chosen to punish Franklin.

Notwithstanding, the Cherokees had by this treaty agreed to a lasting peace, hostilities broke out. A band of savages attacked and killed two men in a settlement north of the Holston river in what is now Knox county. A panic ensued among the settlers who collected in the stations and called for reinforcements. Governor Sevier acted with his usual energy, gathered a force of one hundred and sixty horsemen at Houston's Station on the Little River and without delay crossed the Tennessee river, marched over the Unaca Mountain to the Hiwassee and there burned three of the Valley Towns and killed fifteen warriors. The fleeing Cherokees were pursued, but learning they had been heavily reinforced and formed an ambushade, he prudently retreated. His severe chastisement had a salutary effect and there were few aggressions for sometime thereafter.² To insure more permanent relations and to correct in some measure the injustice of the Hopewell Treaty, the Franklin Assembly appointed, William Cocke, Alexander Outlaw, Samuel Weir, Henry Conway and Thomas Inglis, commissioners to negotiate a treaty with the Cherokees which they accomplished August 3, 1786 at Coiatee by which the Indians agreed to live in peace with the whites; and to yield to them the lands south of the Tennessee from the head of the island at the mouth of the Holston river to the dividing ridge between the Holston, Little River and Tennessee to the Blue Ridge; and the lands on the north side of the Tennessee sold them by North Carolina.³ As the commissioners were accompanied by a force of two hundred and fifty men, some have considered this treaty made under duress.

Another influence favorable to the new state was the proposed closing of the Mississippi river to western commerce by a treaty with Spain. Congress had authorized Secretary Jay to make a treaty of commerce with Spain and he proposed to surrender navigation of the Mississippi for a term of years in consideration of certain concessions which were demanded by the commercial interests of the eastern states. This closing enraged the western

² Ramsey, 341-342; Haywood 175-176.

³ Ramsey, 343 to 346.

people not only against North Carolina but the Confederate government itself.

During this period, there is little record of the internal government of Franklin, but under date of May 11, 1786, Colonel Joseph Martin writing to Governor Caswell relates what he had heard during a slight sojourn in Franklin to this effect: "They have held an Assembly lately and appointed Captain Cocke a member of Congress and given Colonel Charles Robertson liberty to coin thirty thousand dollars in specie. I am told they are to have a coat of arms of their own, having reference to the state of Franklin. One of the members of the Assembly informed me that the Colonel was in such forwardness that in the course of three weeks he could furnish three members to Congress with cash of the new coin."⁴ There must have been some romancing in his statement for no document has been seen with an official seal, nor has any of the fabulous coin turned up. Difficulties of a serious nature began to beset the new state. In the proceeding November, the North Carolina legislature passed an act granting pardon and oblivion for all that had been done in the revolted counties, if they returned to their allegiance, also appointing civil and military officers in place of the Franklin authorities, and empowering the counties of Washington, Sullivan and Greene to choose representatives.⁵ Pursuant thereto an election was held at Sycamore Shoals on the Watauga river in July and John Tipton was elected senator and James Stuart and Richard White were chosen members of the House of Commons from Washington county in the legislature of North Carolina.⁶

⁶ Ramsey, 339.

It seems the Franklinites held an election at Jonesborough at the same time to counteract the move of the adherents of North Carolina, at which Landon Carter and Thomas Chapman were elected unanimously by 254 votes, whereas only 179 votes were cast for Tipton and his colleagues. These elections indicate the relative strengths of the factions in Washington county at the time.

In spite of the defection of some of the early leaders, Franklin continued to exercise its jurisdiction and elect its officers. Those chosen were: Sevier county, Samuel Newell and John Cluck representatives, Samuel Wear clerk of the courts and

⁴ Ramsey, 342.

⁵ *Ibid.*, 338.

colonel of the militia; Spencer county, William Cocke and Thomas King representatives, Thomas Henderson clerk and colonel of the regiment; Caswell county, Alexander Outlaw and Henry Conway representatives, Joseph Hamilton clerk and George Doherty colonel of the regiment; Greene county Daniel Kennedy clerk and John Newman colonel; Washington county James Sevier clerk; Sullivan county John Long, John Provin and George Maxwell representatives John Rhea clerk and George Maxwell colonel.⁷ Besides the counties, the state was divided into districts⁸ probably as follows: Washington district, composed of Sullivan, Washington and Greene counties; Elholm district composed of Caswell, Spencer, Sevier and Blount counties. In the exercise of the highest prerogative of government, the Superior Court of Franklin sitting at Jonesborough tried and convicted of murder George Mittleton Clarkson who was hanged.⁹

By fall, much confusion in the administration of affairs was manifest and to relieve himself and his government from embarrassment and danger, Governor Sevier and the Assembly resorted to the appointment of William Cocke and Judge Campbell as commissioners to negotiate a separation with North Carolina. In support of this embassy Sevier addressed a long letter to the governor of North Carolina, dated from his home, "Mount Pleasant, 28th October, 1786, wherein with propriety and firmness he recapitulated the causes and justification for separation and set forth the impossibility of North Carolina governing a people so remote. Judge Campbell because of his health was unable to accompany Cocke on his mission but forwarded to Governor Caswell a written argument containing a cogent plea for separation.¹⁰

The legislature of North Carolina which met at Fayetteville, in November, 1786, divided Sullivan county and erected from it Hawkins county, almost identical with the Franklin county of Spencer, appointed justices and militia officers and fixed the times for holding the county courts. John Haywood, the historian was then clerk of the North Carolina Senate and noted what took place on the occasion.¹¹ He says: "At this critical

⁷ *Ibid.*, 340.

⁸ *Ibid.*, 376.

⁹ *Georgia State Gazette*, May 24th, cited by Williams, page 138.

¹⁰ Ramsey, 347 to 351.

¹¹ Haywood, 177.

juncture, appeared William Cocke Esq. on a mission from the western counties; and at his entreaty was heard at the bar of the House of Commons. In a speech of some hours he pathetically depicted the miseries of his distressed countrymen; he traced the motives of their separation to the difficult and perilous condition in which they had been placed by the cession act of 1784." Another historian has described Cocke as the typical natural orator, tall and impressive appearance with black flashing eyes, dark features and black hair. That he was a man of great eloquence has never been questioned, and Haywood concludes his narration: "His speech was heard with attention and he retired." However, his plea had no effect, and following the report, they enacted that those who had returned to their allegiance should be restored to all their privileges as citizens; that all personal injuries should be redressed at common law; declared all offices vacant exercised by persons who had accepted other offices and directed such vacancies should be filled by appointments by North Carolina; directed all arrearages of taxes due up to the end of the year 1784; and relinquished all taxes since that date.¹² Haywood says: "Measures conceived in so much moderation and breathing nothing but benignity could not fail to make the wished for impression upon those whom they affected." The report of the committee which preceded the enactment stated that whenever the wealth and numbers of the western country should increase so as to make the same necessary, separation may take place under certain compacts and stipulations. It has been suggested that North Carolina's purpose was to delay separation or cession to the United States until she had sold all the unoccupied western land, then make a cession when there was nothing valuable to cede, and thereby defraud the general government and the western people.¹³ It might be more justly said that the "gentleman in the wood pile" was not North Carolina but her land speculators who ran her government. The act gave great dissatisfaction and Ramsey says (page 354): "The old officers were capable and faithful and had given confidence and approbation; and many of the newly appointed were non-residents, inexperienced and unreliable and selected to favor some functionary in the old state and consequently odious to the people."

¹² *North Carolina State Recs.*, XVIII, 112.

¹³ William, 120-121.

North Carolina's remission of taxes for three years was the heaviest blow aimed at the existence of the new state, and to counteract it the Assembly of Franklin levied a land tax upon payment of which for the first year, the lands were to be exempt for the three following years. Other legislation enacted provided for the opening of a land office for the sale of lands south of the French Broad river; provision for the punishment of those who acted under the authority of North Carolina; and empowering the governor to raise the militia ostensibly to repel an Indian invasion, or as North Carolina feared to oppose the exercise of its jurisdiction.¹⁴

During the latter part of 1786 and all of 1787, the confusion was intensified by the attempt of the adherents of North Carolina to assert the jurisdiction of that state and the efforts of the Franklin authorities to maintain their government. Provocation was followed by retaliation and that by more provocation. The Franklin judges held supreme court at Jonesborough twice a year; and the Tipton faction held court at Buffalo ten miles above Jonesborough under the authority and by judges of North Carolina, with little obedience paid to either court by any one. One day while the Franklin court was sitting, the serenity of the judges was upset by an armed invasion by Tipton and a gang of followers. They seized the clerk, took away or destroyed his records and with much menace and many oaths carried the judges from the bench and drove them away from the court house. Not long after, the Franklinites did the same thing with a North Carolina court. These incidents became common occurrences. Many of the public records both of Franklin and North Carolina were destroyed or lost. Some of the records were hid in a cave and the writing was obliterated by the dampness. Wills were lost, the administration of estates prevented and much private property lost. The rival court clerks issued marriage licenses and many persons doubted they were legally married. Taxes were unpaid, no one knowing to whom they should be paid. Industry was paralyzed and the crops neglected. Political discussion divided the people, family and neighbor friendships were alienated and the amity of years destroyed. By fighting they attempted to settle what words would not determine. The brutality of the frontiersman was aroused, eyes were gouged out, and ears and noses bitten off; and these disgraces were not

¹⁴ *N. C. State Records* XXII, pages 678-679; Ramsey, page 360.

confined to the baser elements of the population but were indulged in by the leaders themselves. Tipton hated Sevier with all the venom of his passionate temperament, and Sevier despised Tipton with all the spleen his milder nature was capable of. One day they were thrown together and Tipton began to abuse Sevier who no longer able to endure the denunciation struck his vilifier with his cane. Instantly the two antagonists began to strike each other with their clenched fists. The outcome of the struggle was undecided when bystanders interposed and parted the belligerents.¹⁵

The increasing tumult actuated Governor Caswell to attempt some measure of compromise, and the depletion of his followers induced Sevier to respond. Evan Shelby was the peacemaker selected by Governor Caswell. None could have been better chosen. The old man was highly respected, had great influence among the western people and was an early friend of Sevier. The authority of North Carolina was then quite well accepted in Washington, Sullivan and Hawkins counties, but in Greene and the other counties Franklin was still in the ascendancy. Shelby in a letter to Caswell, dated March 21, 1787,¹⁶ sets forth the agreement which was signed by Shelby and Sevier the day before and which provided: First, that the courts transact no business except the trial of criminals, proving wills, deeds, bills of sale and like conveyances, the issuing of attachments, writs and any legal process so far as to procure bail and no final determination of such suits except as mutually agreed upon by the parties; that the inhabitants have full liberty and discretion to pay their taxes either to the state of North Carolina or to the state of Franklin; that the agreement should continue in force until the meeting of the North Carolina legislature in November, and that persons guilty of felony and committed by North Carolina justices should be received by the Franklin jailor of Washington county and proceeded against in the same manner as though committed by justices of state of Franklin, also in the meantime, the citizens should give their instructions either to be a separate state or citizens of North Carolina.

It is doubtful, that this armistice relieved the tension even temporarily. Cocke and other leaders refused to concur. Colonel Hutchings wrote the governor urging North Carolina suppress

¹⁵ Haywood, 173 to 175.

¹⁶ Ramsey, 337.

the insurgents.¹⁷ Sevier had written Caswell: "We shall continue to act as independent and would rather suffer death in all its various and frightful shapes than conform to anything that is disgraceful." Caswell replied in a conciliatory tone, expressing himself in favor of separation, "whenever the people to be separated think themselves of sufficient strength to support a government"; and concludes by kindly "recommending unanimity among you as the only means by which your government ever can obtain energy, even when separation is effected by the consent of North Carolina."¹⁸ Caswell in his response hits the fatal weakness of Franklin, inability of numbers, wealth and experience to sustain a proper independent government. The failure of the compromise had more embittered the adherents of North Carolina and even Evan Shelby advised stern measures. After consulting, Colonel Tipton of Washington, Colonel Maxwell of Sullivan and Hutchins of Greene, Shelby wrote Caswell, he expected hostilities to break out soon and to prevent the effusion of blood at least one thousand troops should be sent to suppress the insurrection and that it might be advisable to call on Virginia for assistance.¹⁹ Others wrote to the same effect.²⁰

However, Governor Caswell was wiser than his advisers and clearly perceived what they were unable to see, that time was working in favor of North Carolina and that the new state movement was falling to pieces; that the frenzy of the Franklinites was caused by the despair of a failing cause and if restraint was practiced by the parent state there would be no serious trouble. Moreover, the governor desired no bloodshed and realized his state was unable and unwilling to maintain an armed conflict. He steadily pursued his policy of conciliation and it worked.²¹ A pacific address to the people was issued.²²

It appears a convention, for the adoption of the constitution formed in November, 1785, was held at Greeneville in May 1787 and it was resolved that, that instrument should be the constitution of the state. A proposition was submitted and debated that the Franks elect members to the North Carolina

¹⁷ Ramsey, 360-361.

¹⁸ *Ibid.*, 362-363.

¹⁹ *Ibid.*, 364-365.

²⁰ *Ibid.*, 365-366.

²¹ Ramsey, 366-367.

²² *Ibid.*, 367-368.

Assembly, who if seated would exert their influence for separation but a substitute was adopted to the effect that commissioners be appointed to negotiate peace with North Carolina. In the course of the debate Cocke asserted there were thirty thousand people in the territory.

More discord and confusion followed the failure of the compromise and much disorder marked the August elections. The despairing Franks resorted to the plan proposed in the convention and attempted to elect their adherents to the Carolina legislature. Stockley Donalson Franklinites was candidate against Thomas Amis, Carolinian. Peter Turney, the Spencer county sheriff seems to have had charge of the election. An altercation ensued and it was maintained that only those who had paid taxes to North Carolina could vote. Turney replied: "If that is the case, the strongest party will take the house." As the Franks were there with an armed force the Carolinians withdrew and Donalson was declared elected. In Sullivan county the Franks endeavored to carry the election but were unsuccessful. In Washington county, Landon Carter and John Sevier were candidates. Carter was elected to the North Carolina Senate but Tipton contested his seat, and the election was declared void. Judge David Campbell a Frank was elected to the Senate from Greene county.

Violence ensued. Tipton with an armed force of fifty men attempted to seize some public records and this occasioned the report that Sevier was a prisoner. Two hundred Franks gathered and marched to Tipton's house, "before they were sensible of the mistake, and it was only through the influence of his Excellency that the opposite party did not fall a sacrifice to our Franks." In the meantime about fifteen hundred had mustered to rescue the governor.²³ Andrew Caldwell, the Franklin sheriff imprisoned Jonathan Pugh, the Carolina sheriff in the jail of Washington county.

In August, the Franklin Assembly elected Evan Shelby governor to succeed Sevier whose term expired March 1, 1788; and although Sevier urged Shelby to accept,²⁴ he declined. Contrived by Sevier, the election was intended to win support for Franklin's tottering fortune in Sullivan county where Shelby resided. It did placate Shelby who in the following October resigned as brigadier general of North Carolina militia, alleging

²⁴ Williams, 169.

old age as the excuse; but suggesting in the letter he wrote, "If the wisdom of the General Assembly should think Mr. John Sevier a person adequate to succeed me in the office of brigadier general, I would wish to recommend this gentleman to the honorable the General Assembly."

Mention has been made of the interest of Governor Caswell, John Sevier and others in the land jobbing scheme of the territory within the great bend of the Tennessee river, which Georgia claimed and erected into Houston county, appointing prominent North Carolina and Franklin politicians as officers of the new county. The hostility of the Indians interrupted these proceedings. Another attempt was projected for the establishment and settlement of Houston county by the Franklin people, and correspondence was carried on by Sevier and Governor Telfair of Georgia who wrote Sevier in August, 1786 that consideration of the Tennessee land district must be postponed because the Creek Indians had commenced hostilities on the frontiers of Georgia. Not long after, Georgia commissioned Sevier, brigadier general for the District of Tennessee.²⁵

The close connection of some of the leading men of Franklin and North Carolina in this transaction may explain the puzzling attitude of these leaders in regard to the new state. The project led to the close intimacy between Georgia and the Franklin men, which was industriously and intelligently promoted by Augustus Christian George Elholm. He was born in the Duchy of Holstein, Denmark and was one of the soldiers of fortune who came to America at the outbreak of the Revolution. He was a captain in Count Pulaski's corps and served with distinction in the siege of Savannah. Later he was a captain of calvary under Light Horse Harry Lee. As adjutant general of Georgia, he was probably sent by Governor Telfair to Franklin to effect a military arrangement. Although an adventurer, Elholm was a man of good character, amiable disposition, popular among the people and earnest in behalf of the new state. As a result of his visit, plans were made for Franklin's aiding Georgia but before they materialized, Georgia made peace with the Creeks. Sevier used the Georgia connection to the utmost, for the fortunes of Franklin had steadily declined and in desperation he had recourse to an appeal to arms in order to reunite his people and silence the opposition of his foes. In a circular letter he informed his

²⁵ Ramsey, 370 to 380.

people that Elholm had just returned from Georgia and requested fifteen hundred men from Franklin which force Sevier urged be raised. A large force was raised but Georgia delayed action, and the men became restless and disappointed, and remained in sullen discontent at home.²⁶

Another effort to sustain their sinking cause was Sevier's appeal to Benjamin Franklin, after whom the state was named, for advice; but the wise old doctor in his response, while expressing kindness and appreciation, indicated no inclination to exert himself in their affairs.²⁷

The western counties in 1787, elected to the North Carolina legislature the following: Davidson, James Robertson and Robert Hayes; Greene, David Campbell and Daniel Kennedy; Washington, John Tipton, James Stuart and John Blair; Hawkins, Nathaniel Henderson and William Marshall; Sullivan, Joseph Martin, John Scott and George Maxwell.²⁸

²⁶ *Ibid.*, 397.

²⁷ Ramsey, 386-387; Williams, 165 to 169.

²⁸ Haywood, 189.

CHAPTER VIII

THE FUTURE OF JOHN SEVIER

Deserted by its followers within its territory and abandoned by its well wishers without, the State of Franklin languished and died. The last session of its legislature was held at Greeneville, with John Manifre as speaker of the House of Commons, and Charles Robinson as speaker of the Senate, but no important business was transacted. Judge Campbell and Landon Carter were appointed delegates to the legislature of North Carolina.¹ Defection continued. The office holders deserted their positions and all that remained was a depleted Council of State; but Sevier ever sanguine and hopeful alone remained steadfast to his dream. Ramsey (page 401) says: "There scarcely remained in the Commonwealth of Franklin vitality enough to give it a nominal existence; its substance and strength were absorbed into the Carolina Regime and the pangs of political annihilation having thus come, little more was left of the skeleton than its head. . . . The judiciary in its highest department was annihilated by the election of Judge Campbell to a seat in the Tarborough Legislature, by which he was soon appointed judge of the Superior Court for the District of Washington at Jonesborough." Distraction extended everywhere. The lower courts were broken up and their records carried away or lost. Fights prevailed and neighbors battered each other with fists and clubs. Farming was neglected and former industrious men spent their time at the tippling houses drinking corn whiskey and angrily arguing politics. It was a time of agony and despair and general anarchy prevailed.

In this, his hour of triumph, Tipton had recourse to a venomous act of vengeance against his hated rival Sevier.² Early in 1788, the sheriff acting under North Carolina authority, and by virtue of a writ of execution for debt seized Sevier's negro slaves and removed them from his farm on the Nolachucky

¹ Ramsey, 402.

² Haywood, 290.

river to the house of Tipton. Sevier at the time was in Greene county devising a defense of the inhabitants against a threatened Indian invasion; and considering the seizure an unlawful act by an illegally constituted officer resolved to punish the actors. He raised one hundred and fifty men and with them marched directly to Tipton's house. In the meantime, Tipton warned of his approach gathered fifteen of his friends and barricaded the house. Sevier demanded the surrender of the house and all within, which Tipton refused with a defiant invitation "to fire and be damned." There is some uncertainty as to the time. Williams fixes it February 27th³ and Ramsey February 28, 1788.⁴ Captain Peter Parkinson who had been summoned by Tipton arrived with reinforcements.⁵ They were driven back by the Sevier men with the loss of their horses. A woman from the Tipton house who ventured out was by mistake shot and wounded in the shoulder. The house was besieged but the night being excessively cold and the guard consequently negligent Colonel Love and his brother evaded their vigils and introduced more reinforcements within. Major Elholm second in command under Sevier advised the erection of a movable battery covered, by which the troops might advance safely to the walls of the house. Meanwhile, Colonel Maxwell with the militia of Sullivan county was on the way and to intercept them and prevent their crossing the Watauga river at Dungan's ford, Captain Joseph Harden and John Sevier were dispatched with forty men, but when within half a mile of the ford the men refused to go farther because of the excessive cold. Before morning Maxwell crossed and advanced without interference, joining forces with Pemberton. At day break in the face of falling snow, Sevier's men attacked the house. As they charged Maxwell's men fired a volley and raised a shout to inform the besieged deliverance was at hand. Cheered by this, Tipton's men sallied forth and fell on their enemies who caught in a crossfire "the dismayed troops of Sevier fled in all directions through every avenue that promised escape from the victors."⁶

The casualties were: Webb from Sullivan county killed; Vann wounded in the arm; Jonathan Pugh, sheriff of Washington county wounded in the arm and died eight days later; John

³ Williams, 200.

⁴ Ramsey, 413-414.

⁵ Williams, 200.

⁶ Haywood, 192-193.

Smith, a Frank had his thigh broken and died a few weeks later; and Henry Polley wounded in the hip. With all the skirmishing and shooting it would seem there was a lack of earnestness on both sides and that the fight was without the ferocity which usually marks such engagements. According to Dr. Taylor of Carter county: "We did not go there to fight. Neither party intended to do that. Many on both sides were unarmed and some who had guns did not even load them. Most of us went to prevent mischief, and did not intend to let neighbors kill one another. Our men shot into the air and Sevier's men into the corners of the house. As to the storm of snow keeping the men from taking a sure aim it is all a mistake. Both sides had the best marksmen in the world, who had often killed a deer and shot in the head too, when a heavier snow was falling. The men did not try to hit anybody. They could have easily done so had they been enemies."⁷

A scouting party, consisting of John Sevier Jr., James Sevier and their cousin John Sevier and sixteen others, was captured, and Tipton was determined to hang both of Sevier's sons. Thomas Love interceded, pointed out to Tipton the rashness of his design and the fact that two of Tipton's sons supposed to be in Sevier's custody would surely be hanged in retaliation. Thus learning of the peril of his own sons, he relented and ordered the release of the two Sevier boys.

Immediately after his defeat, Sevier sent Robert Young Jr. with a message requesting time to consider terms of peace, which was granted until March 11th and was followed by a letter from Sevier to Tipton requesting the terms.⁸ Considerable correspondence followed and Sevier suggested a convention of the people.⁹ "With this battle the government of Franklin came to an end" and the triumph of North Carolina was complete; but it was a success she hardly desired. The government of the western counties was a burden and an annoyance but many of her citizens were unwilling to relinquish it from principles of pride, and her politicians desired retention until the public lands were exploited for the benefit of themselves. As for Sevier he was alone, deserted and an outlaw. He to the end had been faithful to the new state. Most of those vehement for independ-

⁷ Ramsey, 412.

⁸ *N. C. State Records*, XXII, 695.

⁹ *Ibid.*, 715.

ence in the commencement had one by one fallen away and from timidity dropped into the obscurity of neutrality, and others from avarice rose into North Carolina positions of honor and emolument. The foolish people who always acclaim a rising sun and decry a setting one, as was to be expected, deserted him. Sevier perceived his doom; and describing the night before the attack, Ramsey says:¹⁰ "No merry laugh was heard, nor song, nor jest. Little care and less vigilance was taken in placing out the sentinels. Sevier was silent, appeared abstracted, thoughtful and at this time only in his whole public life morose and ascetic. . . . He took no precaution, suggested no plan either of attack or defense." During his term as governor, Sevier had governed justly and well and without bloodshed. Hated by Tipton and his adherents to whom he had done no wrong; and who now relentlessly pursued him unto destruction and death, well might he lament, in this day of sorrow and despair, that good deeds brought no reward. What had the future in store for John Sevier?

Tipton wrote General Kennedy:¹¹ "My business is not to disturb or molest the inhabitants"; but he had no word of indulgence for Sevier. However, Joseph Martin who early deserted the new state and was now commander of the North Carolina militia wrote Kennedy kindly words, pleading for a peaceable solution of the difficulties, and also "reconciliation for our worthy friend (meaning Sevier) whose situation at this time is very disagreeable. I most sensibly feel for him and will go very great lengths to serve him. Pray see him often and give him all the comfort you can."¹² Nevertheless, a little later, Martin wrote Governor Caswell that while Sevier and Kennedy had gone to the French Broad region ostensibly to organize an expedition against the Indians, he suspicioned their real purpose was to stir up resistance to North Carolina; and he requested the governor to send help.¹³

Meanwhile, the Cherokees relieved, by its dissolution, of the restraint imposed by Franklin, began hostilities by the murder of the Kirk family on the Little River, twelve miles south of Knoxville. The father returning home discovered the bodies of

¹⁰ Ramsey, 411.

¹¹ Ramsey, 415.

¹² *Ibid.*, 416.

¹³ *Ibid.*, 417-418.

eleven members of his family lying scalped in the yard. The militia gathered, placed themselves under command of Sevier, and marched to the Hiwassee river and burned an Indian town. The troops then destroyed the villages along the Tennessee river and the Indians fled to the mountains. Major Hubbard during Sevier's absence invited Abraham a friendly Indian together with the Tassel a chief to come to his camp for a conference. Upon their arrival they were put in a house, which Hubbard and Kirk entered and barbarously murdered the defenseless Indians five in number. Sevier was blamed for complicity in the crime and for failure to punish the perpetrators; but Haywood defends him from these accusations and says that because of the attitude of the militia it would have been impossible to have inflicted any punishment. The whole frontier was in a state of panic. Houston station sixteen miles south of Knoxville was built and General Martin sent Major Thomas with a force to garrison it. The Indians attacked it but were driven off. Sevier with the army succeeded in evading an ambushade at the fords of the river and marched to the Big Tellico where on the plains an encampment was made. Soon after the troops returned home. Depredations continued during 1788, and General Martin invaded the country about Lookout Mountain and had a battle with the Indians but his troops refusing to participate further he retreated. The Indians pursued them and stole all their horses. After their return, the Cherokees captured Gillespie's Station within eight miles of Knoxville, but Sevier pursued them and succeeded in recovering the captives who were exchanged for Indian women and children in his possession. "Sevier since his defeat by Tipton had been in the constant performance of the most brilliant actions of great utility to his countrymen." ¹⁴

In May, 1788, North Carolina courts were held at Greenville without interruption, and Andrew Jackson, John McNairy, David Allison, Archibald Roane and Joseph Hamilton North Carolina attorneys were admitted to practice.¹⁵ Jackson's first public act in the new country was probably the signing of a petition¹⁶ of the inhabitants of the western country to the Assembly of North Carolina praying for separation. The endorsement on the petition reads: "In Senate, December 1787. Read

¹⁴ Haywood, 194 to 202.

¹⁵ *Ibid.*

¹⁶ For text of petition and signatures, see Williams Appendix B.

and referred to Comt on Public Bill" N. C. State Records XVII, 705-714) The date of this endorsement would seem to indicate Jackson came to Tennessee before his admission to the bar, in 1788. Due to the Martin letter and the incitement by others, Governor Johnson who had succeeded Caswell wrote Judge Campbell, July 29, 1788, stating: "That John Sevier who styles himself Captain General of the State of Franklin has been guilty of high treason and levying troops to oppose the laws and government of this state, and has with an armed force put to death several good citizens. . . . If these facts shall appear to you by the affidavits of credible persons you will issue your warrant to apprehend the said John Sevier etc." He also wrote Martin: "Sevier . . . appears to be incorrigible and I fear we shall have no peace in your country till he is proceeded against to the last extremity."¹⁷

Judge Campbell, because of his friendship for Sevier and close connection with him in the Franklin movement, disregarded the governor's instructions, but Samuel Spencer, a judge of the Superior Court of North Carolina, issued a warrant charging Sevier with high treason. What followed may be told in brief. After a meeting of the field officers at Jonesborough, General Martin, Colonel Love and Major King remained, and while they were there, Sevier and ten or twelve friends rode into Jonesborough and at the tavern where he drank freely he had an altercation with Major Craig. After this affair was patched up, Martin, Love and King left for Love's home. When they were gone, Sevier had a quarrel with Caldwell. Sevier advanced on Caldwell with his pistol in hand. It accidentally went off and wounded one of Sevier's friends. Sevier then left Jonesborough and came to Robertson's still house, where Love had stopped. After drinking freely there, Love went to Robertson's house where Martin and King were; and Sevier to the home of Mrs. Brown, widow of Jacob Brown who had been one of his captains, where he spent the night. Caldwell after his altercation with Sevier went to Tipton's house, and the latter with some ten men started in pursuit of Sevier. About daybreak they arrived at Mrs. Brown's house. She had just risen and suspecting their purpose she sat in the doorway and prevented their entrance. Awakened by the commotion, Sevier sprang out of bed and partly dressed, opened the door walked to Colonel Love, held

¹⁷ Ramsey, 418.

out his hand and said "I surrender to you." Love led him to the other end of the house where Tipton and Mrs. Brown were contending. Tipton flew into a rage, swore he would hang Sevier, drew his pistol and threatened to shoot him. Finally pacified, Tipton took Sevier to Jonesborough. Love went along to assure the latter's safety. Sevier implored Love to have him confined in the jail at Jonesborough but Love refused saying: "Tipton will place a strong guard around you there; your friends will attempt a rescue and there will be bloodshed."

Tipton had Sevier handcuffed and started with him for Morgantown, but only went a short distance, when he consigned his prisoner to a deputy sheriff and two other men. Colonel Love continued with them until evening, and at Sevier's request dispatched his brother James Love to Mrs. Sevier for necessary clothing and money. Before Colonel Love's departure the handcuffs were removed. In the morning, Sevier made a futile attempt to escape and in the melee one of the guards, George French shot at him but missed fire. It is said that the other guard told Sevier, French had been ordered to kill him; that this induced the attempt to escape and he would have succeeded but became entangled in the brush which gave French time to overtake him. Fortunately by design or otherwise, the bullet had been withdrawn from French's pistol or he would have killed him for he fired at such close range that the powder severely burned him. In due time, Sevier was delivered to the sheriff of Burke county at Morgantown. On their way they passed through the McDowell settlement and General McDowell and his brother went with them to Morgantown and became sureties for Sevier's appearance.

Not long after, a party was formed for the release of Sevier, which included his brother Joseph Sevier, John Sevier Jr., Nathaniel Evans, George North, James Cosby, Jesse Greene, and William Matlack. They secretly entered Morgantown and as the court was in session and the town full of strangers freely mingled with the people without suspicion. At night after the court had adjourned, they with Sevier decamped and proceeded through the mountains with great rapidity, and eluded pursuit if any was attempted which is doubtful. The foregoing is the account given by Haywood¹⁸ and followed by Williams¹⁹ which

¹⁸ Haywood, 206.

¹⁹ Williams, 231-232.

is a little more complete and based somewhat on the account of John Sevier Jr., contained in the Draper M.S.S.

Ramsey²⁰ gives another version of the rescue based on the manuscript of William Smith to the effect: On approaching Morgantown, the rescuing party separated, four of them concealed themselves near the road while James Cosby and Nathaniel Evans went into the town. Evans led Sevier's celebrated race mare to the front of the court house door. Cosby entered the court room, and caught Sevier's eye. "During a pause in the trial, Cosby slipped forward in front of the judge and in that quick and energetic tone so peculiar to him asked the judge if he was done with that man. The question, manner and tone caused every person to start, to cast their eye on the speaker, then on the judge, all in amazement. In the meantime, Sevier had caught a glimpse of his favorite mare standing at the door, and taking advantage of the confusion he made one spring to the door, was safely in the saddle and with the speed of thought was borne from the wondering crowd. "Yes" cried a waggish voice, "I'll be damned if you ain't done with him." His comrades were not slow to follow in his wake, and although immediate pursuit was made, a few minutes brought them to the main body, who with one wild shout of victory closed in the rear and bore him on in triumph."

The escape and return of Sevier was acclaimed by the western people with every manifestation of joy. Guests from all sections flocked to his Mount Pleasant home on the Nolachucky and were entertained by him and his gallant wife Bonny Kate with the most liberal hospitality.²¹

Now that the Franklin revolt was over, the legislature of North Carolina passed an act of oblivion pardoning all offenders against her jurisdiction, except, "That the benefit of this act should not entitle John Sevier to the enjoyment of any office of profit or honor in the state of North Carolina, but that he be expressly barred therefrom." At the Greene county court, February Term, 1789, John Sevier, Joseph Hardin, Henry Conway, and Joseph Weir "came into court and took the oath of allegiance agreeable to the Act of Assembly in such cases made and provided." Having taken this oath and notwithstanding the provisions of the act of oblivion, at the annual August

²⁰ Ramsey, 425.

²¹ Williams, 233.

elections, the people of Greene county, elected John Sevier to represent them in the Senate of North Carolina, and he duly appeared at Fayetteville November 2, 1789 to take his seat. A resolution was introduced to remove the disability. Tipton violently opposed it and assailed Mr. Amy of Hawkins county while speaking in favor of it. During the festivities at the tavern that evening another member, Mr. Roddy reproached Amy for using language which provoked Tipton and begged him to use words which would "soothe his feelings." The next day while Colonel Roddy was speaking in favor of the resolution, Tipton became enraged, rushed from his seat and seized Roddy by the throat. Appreciating the humor of the situation, Amy shouted: "Soothe him, colonel, soothe him." Everyone roared with laughter, the combatants were parted, a challenge was sent but the affair was amicably adjusted.

After a few days of this acrimonious debate, the resolution was passed and Sevier took his seat. During the session, he was reinstated as brigadier general for all the western counties, and laws were passed confirming administration of estates and legalizing marriages celebrated under the authority of the Franklin government.²² Williams (page 246) says Ramsey erred and that the debate was in the November session of 1788, on the provision disabling Sevier, and bases his conclusion on the fact that neither Tipton nor Roddy were members of the 1789 Assembly. He also states that Sevier's disability had already been removed when he appeared and that he was immediately sworn in. North Carolina finally ratified the new Federal Constitution, and divided the state into four congressional districts, one of which comprised all the territory west of the Alleghany mountains, from which John Sevier was elected member without opposition, and on Wednesday June 16, 1790, he took his seat in the House of Representatives of the United States.²³

The territory south of the French Broad river and included in the Franklin county of Sevier, the Cherokees had ceded to Franklin by the Dumplin and Cyota treaties but being made more or less under duress were of doubtful validity.²⁴ Under the Hopewell treaty it still belonged to the Indians. Consequently, the settlers were there under dubious rights. They were con-

²² Ramsey, 432.

²³ *Annals of Congress*, Vol. II, page 1640.

²⁴ Haywood, 206; Ramsey 433; Williams 218.

sidered, by North Carolina, as trespassers on Indian lands and their county of Sevier as non-existent.²⁵ There John Sevier fled, after the collapse of his government, and kept up a show of resistance. On October 15, 1788, a pretended session of the General Assembly of the State of Franklin was held.²⁶

During the time of his exile there, Sevier entered into a rather compromising correspondence with the Spanish officials who were anxious to promote a separation of the western people from the United States.²⁷ Under date of September 12, 1788, Sevier wrote the Spanish minister: "You can be sure that the favorable hopes and ideas that the people of this country maintain with respect to the future possibility of an alliance and concession of commerce with you in the future are very ardent and that we are unanimously determined to that effect. The people of this country have come to realize truly, upon what part of the world and upon what nation depend their future happiness and security, and they acutely infer that the interest and prosperity of it depend entirely upon the protection and liberality of your government."²⁸ These are strong words and explanations for and against him have been made; but we may suspect Sevier was a politician in a desperate situation and needed help wherever he could obtain it. At any rate he begged money of the Spaniards.

Sevier appears in a better light in a battle he fought and won with the Cherokees in January 1789.

On January 12, 1789, representatives of the inhabitants of the French Broad country held a meeting of which Joshua Gist was chairman and T. Rowan clerk, and which disavowed acting under the authority of Franklin and asserting their actions were voluntary and purely to defend themselves from the savage enemy. They passed resolutions: expressing confidence in General Joseph Martin; asking North Carolina to cede the western country to Congress; desiring the appointment of a representative to lay their situation before the new Congress under the constitution; requesting the appointment of John Sevier as commander of the inhabitants on the frontier and as agent to negotiate with the Indians; requesting John Sevier, Alexander Out-

²⁵ Ramsey, 434.

²⁶ Williams, 219.

²⁷ *Ibid.*, 236.

²⁸ Henderson, *The Spanish Conspiracy*, 234.

law, Archibald Roane, David Campbell and Joseph Hamilton to draw up a representation of their situation and desire to be in the Federal Union; and appointing William Nelson to wait on Congress.²⁹ In the absence of any government, the people of the French Broad country entered into articles of agreement for the preservation of law and order and providing that capital offenders be turned over to North Carolina for punishment.³⁰

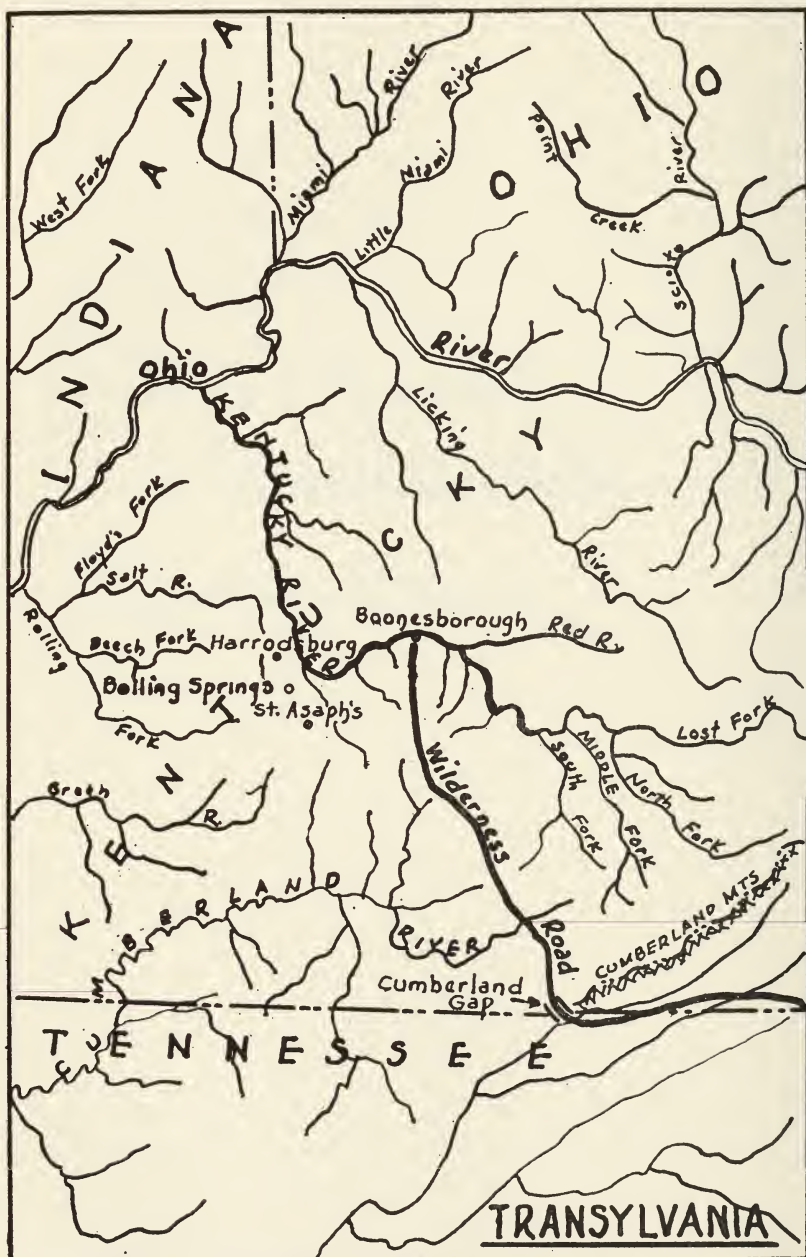
February 25, 1790, North Carolina formally ceded the western country to the United States; which Congress accepted April 2nd; and a little later, established a territorial government there under the name of the "Territory of the United States South of the River Ohio." President Washington appointed William Blount, governor, and John Sevier brigadier general of the militia forces of the territory. Thereafter, Tipton and his adherents had little influence and disappear from the scene. Upon the admission of Tennessee to the Union in 1796, John Sevier became the first governor of the commonwealth.

²⁹ Williams, Appendix C, page 309.

³⁰ Haywood 207; Ramsey 435; Williams 266.

Section IV

TRANSYLVANIA



CHAPTER I

THE TRANSYLVANIA COMPANY

The story of Transylvania is soon told. It materially differs from that of the three other movements and is unattended with their strife and bloodshed. More of a dream and of less reality, its brief existence was without the stirring events, spirited efforts and subtle intrigues which fix the histories of Vermont, Westmoreland and Franklin in popular interest and imagination. Yet the shadowy tale of this lost state is tinged with a romance that has given it publicity and renown. Perhaps, this because of the fanciful characters who conceived the project and the circumstances that gave it birth. Cradled in one of nature's choice spots at a time when men's minds seethed with revolution and change, Transylvania lived as an attempted state for some brief weeks and then expired, leaving but few written testaments of its being and with its memorials transmitted to us through the generations largely by traditional report and romance.

It was an attempt to establish a feudal state in the American wilderness at a time when people were freeing themselves from the fetters of rank and privilege. Long before, two great royal fiefs could be bestowed upon William Penn and Lord Baltimore with feudal ownership and sovereignty, but in the last half of the eighteenth century such royal grants were impossible, when a restless rising generation was fleeing from the vexatious feudal tenures and quit rents of Pennsylvania and Maryland to an asylum on the freer lands of Virginia and North Carolina. But suffering there the rigors of royal governments more oppressive than the proprietary sovereignties they had deserted they visualized in their hearts and hopes independence on the limitless lands beyond the mountains which should be as free as the waters that drained them.

Kentucky was the promised land of their vision. Unoccupied either by savage tribesmen or white settlers, Kentucky was not unknown for John Finley, an Indian trader and Dr. Thomas

Walker, a Virginia explorer had viewed the rolling prairies between the Cumberland and the Tennessee and the fertile lowlands along the Kentucky river, while traders and travellers drifting down the Ohio had viewed and visited the Kentucky shore. Then only great herds of buffalo ranged through the canebraked lowlands and vast numbers of elk and deer, bear and beaver nourished themselves in the wooded uplands. For generations the northern and southern tribes had contended against each other and their mortal conflicts had invested this hunter's paradise with the name of the Dark and Bloody Ground.

Transient hunters living along the eastern verge of the mountains allured by vague rumors of the abounding game had penetrated the region, but the establishment of the King's Line and the prohibition of settlement beyond precluded any permanent white occupation until, the fall of 1768, when by the Treaty of Fort Stanwix, the Six Nations or Iroquois Indians, who claimed this vast western territory by right of conquest, deeded to the English King all the lands east of the Tennessee and south of the Ohio. This cession opened for settlement southwestern Pennsylvania, western Virginia and nearly all of Kentucky and Tennessee. Consequently, early in 1769, William Bean, the first English settler west of the Alleghenies, established his plantation on a tributary of the Watauga river in what is now Tennessee. An influx of settlers from North Carolina and Virginia followed him and planted their colonies in the fertile valleys of the Holston, Nolachucky and Watauga rivers and by 1772 these colonies had knit themselves together into a squatter government under the name of the Watauga Association.

Minded by these occurrences, Richard Henderson, a lawyer and pioneer judge, residing at Salisbury, North Carolina dreamed for himself a great and prosperous career. He was born in Hanover county, Virginia, April 20, 1735, and when a mere lad removed with his family to North Carolina where his father became sheriff of Granville county. One biographer says: "Young Henderson when old enough became a constable and afterwards under-sheriff. . . . He improved a somewhat neglected education, procured a few lawbooks and after twelve months of diligent study was admitted to the bar." This statement is not unlikely for most of the successful pioneer lawyers of those days were similarly trained and depended more on natural wit than legal attainment. A combative disposition, ready tongue

and innate shrewdness were more valuable possessions of the frontier advocate who practiced in the hurly-burly of the crude justice's and county courts, than a cultured mind nourished in the intricacies of the English common law. Moreover these lawyers, unless they attained political distinction, considered themselves failures; and their natural qualifications specially fitted them for the turbulent arena of frontier politics where billingsgate, invective and abuse generally prevailed.

All this may be true of Henderson, but we may probably presume he had more formal education than the foregoing statement indicates, as Thwaites, a considerate and careful historian has said of him:¹ "A scholarly, talented man, eminent in the legal profession." Be these statements as they may, it is an assured fact that he acquired a profitable law business and at the age of thirty five years was appointed one of the judges of the North Carolina Superior Court, which position he capably filled for some years as a respected and honored man, influential throughout western North Carolina.

The Fort Stanwix Treaty and the success of the Watauga settlements must naturally have attracted his discerning mind to the vast region beyond the mountains and the possibilities of personal enrichment there by extensive land speculations. It has been presumed that Daniel Boone induced him and his friends to make their adventure in the Kentucky region. This presumption is based largely on tradition and the statement made years later by Percival Henderson² to the effect that Boone induced Richard Henderson to attempt the purchase of Kentucky. Early historians have said the same thing indicating the story prevailed and this tradition although not inspiring may have tintured the Percival Henderson statement. The later close relationship of the two men may have caused people to assume their association began early. On the other hand, a credible writer has asserted in answer to the presumption that Boone was acting as Henderson's agent in making his Kentucky explorations, that he can find no satisfactory evidence that Henderson ever knew Boone until sometime after his return from Kentucky in 1771, and this statement appears to be somewhat in accord with what Boone himself said. In his celebrated autobiography dictated to and written by John Filson, Boone said:

¹ *Daniel Boone*, by Thwaites, 114.

² Draper, M. S., in State Library Madison, Wisc.

"I remained with my family on Clinch until the 6th of June, 1774. I and one Michael Stoner was solicited by Governor Dunmore of Virginia to conduct into the settlements a number of surveyors. We conducted the surveyors completing a tour of eight hundred miles in sixty two days. . . . Soon after I returned home, I was ordered to take command of three garrisons during the campaign which Governor Dunmore carried on against the Shawanese Indians; after the conclusion of which the militia was discharged from each garrison and I being relieved from my post was solicited by a number of North Carolina gentlemen that were about purchasing the lands on the south side of Kentucky river from the Cherokee Indians to attend their treaty at Watauga in March, 1775, to negotiate with them and mention the boundaries of the purchase." This autobiography has been besmirched, probably because of the hifalutin style in which it is written and slight errors, but as Boone endorsed it twice, it must be accepted as his own testimony and our best source of information. Governor Dunmore's campaign was concluded by the Battle of Point Pleasant fought October 10, 1774, after which he was "solicited by the North Carolina gentlemen," implying his first connection with Henderson "to negotiate with them (the Indians) and mention the boundaries of the purchase." The above digression is made solely to illustrate the uncertainties of much early Kentucky history, which in the absence of contemporary records is necessarily hearsay and traditional.

It is not very material whether Boone induced Henderson or he induced himself, the essential fact being that Henderson and a number of associates entered into a partnership organization which they called The Transylvania Company composed of Richard Henderson, Thomas Hart, John Williams, James Hogg, Nathaniel Hart, David Hart, Leonard H. Bullock, John Luttrell and William Johnson all of North Carolina.³ Their scheme devoid of sense visionary and without rhyme or reason seems inexplicable. They proposed to purchase, from the Cherokee Indians without authority either from the king of England or the colonies of Virginia or North Carolina, a vast tract of land between the Kentucky and Cumberland rivers and erect thereon an English fief, colony or state with leaseholds, quitrents and the incidents of feudal investitures, and tenures. Henderson's lawyer knowledge of English real property law was probably

³ Ramsey, *Annals of Tennessee*, page 117.

the inspiration for the feudal concept of the proposed colony; and the visionary hope of a large annual and perpetual income from lucrative quitrents the material motive. Any expectation that a considerable number of settlers would be attracted to leased lands burdened with quitrents was a vain delusion. In 1775, the men and women, willing to abandon the comforts of the settled east and venture into dangers beyond the Alleghenies, were restless pioneers longing for independence and fertile lands as free and uncontrolled as the waters of the Kentucky and Cumberland rivers.

The Cherokee Indians possessed not even the shadow of a claim to the Kentucky region. Occasionally, their hunting bands roamed that far north and disputed the choice spots with the northern Indians who came over the Ohio and who had better rights, because they were subjects of the Six Nations who long years before had defeated and driven the Cherokees south of the Tennessee river. It is true the Watauga settlers had taken leases of their lands from the Cherokees, but this was more an act of appeasement than recognition of their ownership and done to prevent depredations by the nearby Indians. The English government had long recognized the Iroquois claim, by conquest, to the west and by the Fort Stanwix Treaty expressly affirmed it. Notwithstanding the fact, the Iroquois had taken pains to have their subject tribes represented at and be participants, in the treaty. The deed of cession to George III was signed by a chief of each of the Six Nations, evidencing the government considered the Iroquois Confederacy the only Indian authority capable to convey the territory. By this conveyance, Virginia and North Carolina subject to the paramount right of the king gained the Indian possessory title to nearly all of Kentucky and Tennessee. Virginia had already asserted her ownership, since the Fort Stanwix Treaty by making surveys and settlements in Kentucky when the Transylvania Company began its operations. The absurdity of the Henderson project in all its aspects certainly justified the reputed remark of a prominent North Carolinian: "Pray is Dick Henderson out of his head?"

Nevertheless, the Transylvania Company proceeded to continue the romantic scheme. Having concluded the arrangement with Boone, Henderson and one of his partners, Nathaniel Hart together with Boone proceeded to the Cherokee towns mostly located on the Little Tennessee river and there persuaded the

village chiefs to attend a council to be held at the Sycamore Shoals of the Watauga river in the following March. Boone because of his knowledge of Indian ways was a useful agent on this mission; but it is unlikely much difficulty was experienced in securing their assent, the promise of a liberal donation of trinkets and rum being sufficient inducement to give up a worthless claim.

At the appointed time, a large concourse of Indians, said to have been twelve hundred gathered at the Sycamore Shoals. No minutes of the treaty have been preserved, but lively imaginations have written various accounts based on descriptions of other Indian councils and traditional stories of the affair. It may be well to tell the story as recounted by Haywood and Ramsey, old historians of Tennessee and almost contemporary with the events they related. It does not materially differ from the tales produced by modern historians who may have conned every possible source of information to determine just how a "t" was crossed and a paragraph punctuated. Perhaps, they too had recourse to Haywood and Ramsey.⁴ "Subsequently, on the 17th of March, a treaty was concluded and signed by agents of this company on the one part and by certain chiefs and warriors of the Cherokee Nation on the other part, at the Sycamore Shoals on the Watauga River. By this treaty the Indians agreed to cede and relinquish to the associates all the lands lying between the Kentucky and Cumberland Rivers; which said tract or territory of lands was at the time of said purchase and time out of memory had been the land and hunting grounds of the said tribe of Cherokee Indians." In consideration of this cession ten thousand pounds sterling were alledged to have been paid in merchandise. Twelve hundred Indians are said to have been assembled on the treaty ground. Upon this occasion and before the Indians had agreed to make the cession, one of the Cherokee orators, said to be Oconostata, rose and delivered a very animated and pathetic speech. He began with the very flourishing state in which his nation once was and mentioned the encroachments, of the white people from time to time, upon the retiring and expiring nations of Indians who left their homes and seats of their ancestors to gratify the insatiable desire of the white people for more land. Whole nations had melted away in their presence like balls of snow before the sun, and had scarcely

⁴ As told by Haywood in Ramsey, *Annals of Tennessee*, page 117.

left their names behind, except as imperfectly recorded by their enemies and destroyers. It was once hoped that they would not be willing to travel beyond the mountains so far from the ocean where their commerce was carried on, and their connections maintained with the nations of Europe. But now that fallacious hope had vanished; they had passed the mountains and settled upon the Cherokee lands, and wished to have their usurpations sanctioned by the confirmation of a treaty. When that shall be obtained, the same encroaching spirit will lead them upon other lands of the Cherokees. New cessions will be applied for and finally the country which the Cherokees and their forefathers had so long occupied would be called for and the small remnant of which then may exist of the nation, once so great and formidable, will be compelled to seek a retreat in some far distant wilderness, there to dwell but a short space of time before they would again behold the advancing banners of the same greedy host, who not being able to point out any further retreat for the miserable Cherokees would then proclaim the extinction of the whole race."

Another chief, Dragging Canoe is said to have remarked: "Brother we have given you a fine land, but I believe that you will have much trouble in settling it," and further "there was a dark cloud over that country."

Both Virginia and North Carolina regarded these proceedings with great disfavor and their governors issued proclamations against the validity of the Sycamore Shoals Treaty and grants; and Governor Martin of North Carolina declared Henderson and his partners, "an infamous company of land Pyrates."

Under these unfavorable auspices and the terrible benediction of the Indian chiefs, Transylvania began its existence.

CHAPTER II

THE PATHFINDER

The Transylvania Company anticipated the execution of the treaty and directed Boone to find a path to the promised land. By his capable agency, a way the Wilderness Road, the great avenue from Virginia to central Kentucky was cut.

The adulations of succeeding generations have enshrined Daniel Boone in a halo of romance and fixed him in popular imagination and estimation as the great American pioneer; and yet his actual accomplishments were less than the achievements of some of his contemporaries. Others, long before his advent had explored the country and the town he established was not the first settlement in Kentucky. Although a good Indian fighter, his military exploits were not far reaching, and as a builder of the commonwealth he was surpassed by others. Unlike George Rogers Clarke, he was not an inspirer of men and a designer of great achievements. Undistinguished as an administrator and unqualified as an organizer, he little impressed the political movements of his time. Unfitted for business, he lost great landed possessions by carelessness and neglect, and died a penniless old man in a faraway land. A hunter and roamer, ever wandering from the trammels of civilization to forest fastness and the haunts of game, he found pleasure and contentment in the lone-some solitude of the wilderness. An honest, mild-mannered, temperate man, unambitious of distinction, he attained great renown. The many told tales of his hunts and Indian fights have enchanted the minds of generations, and the pathetic stories of his declining years have excited deep sympathy in the hearts of men. As an agent of colonization, he was the pathfinder who piloted the early settlers and directed them to the most fertile lands. He did much for Kentucky in his modest way, and his fame as the typical American frontiersman has won him romance and renown. Unwarranted as it may be, he is probably regarded as the founder of Kentucky.

Many biographies, good and bad have been written of him and the general interest in them will probably never die. As he was a principal actor in the organization of the lost state of Transylvania, a brief relation of his early life is necessary and desirable. Daniel Boone was born in Oley township, now in Berks county, Pennsylvania, November 2, 1734, (October 28, Old Style) son of Squire Boone and his wife Sarah Morgan, both English Quakers. The Boone family originated in the village of Cullompton, Devonshire, England, and were of the laboring class, George Boone, the grandfather of Daniel, being a weaver by trade and a Quaker by faith. The family appears to have emigrated to Pennsylvania at different times, the first of them coming in 1713. They first settled at Abingdon, but George Boone and his children seem to have been planted in Oley township by 1728. It was not then exactly a frontier community, but of course not so well cleared and cultivated as at the present time. In this environment like other country boys, young Daniel grew up and judging by later manifestations acquired sufficient learning to read understandingly and write legibly, and enough mathematical knowledge to do land surveying. What has been told of his youth has no other foundation than presumption and lively imagination. Probably, in 1750, Squire Boone and his family left Pennsylvania and joined the tide of emigration flowing to the Shenandoah Valley; and it is said, spent about a year with their former neighbors in Pennsylvania, the Lincolns, ancestors of the president, who had already located on Linville creek in what is now Rockingham county, Virginia. In either 1751 or 1752, Squire Boone made his final settlement on the Yadkin river in what was then Rowan now Davidson county, North Carolina.

It is said Daniel Boone was a teamster with the unfortunate Braddock expedition, and as one of the fugitives escaped unscathed. On August 11, 1756, according to the family Bible, he married Rebecca Bryan, daughter of a neighboring farmer. Due to the war, he is reputed to have removed to somewhere near Fredericksburg, Virginia where he worked as a teamster. However, as the deed indicates, on October 12, 1759, he bought of his father six hundred forty acres of land in Rowan county. The obscurity of Boone's life during the following years has been illumined by myths of rescued female captives, and great hunts in unknown regions with which his biographers have padded

their pages. These tales are possibilities, but it is more probable that during this time he was only an indifferent farmer struggling for a living and supplementing his scanty income, as did most of the pioneers, by trapping in the neighboring woods during the winter season. One thing is certain, that somehow and somewhere, he became a skillful rifleman.

When these interesting writers cease wandering through pages of traditional stories, presumptions and conjectures and get down to facts, they begin his actual adventuresome career, just as Boone did in his autobiography and by clandestinely following and padding it with many tall tales. Boone says:¹ "It was the first of May, 1769, that I resigned my domestic happiness, and left my family and peaceable habitation on the Yadkin River, in North Carolina to wander through the wilderness of America in quest of the country of Kentucky in company with John Finley, John Stewart, Joseph Holden, James Monay and William Cool. We proceeded successfully, and after a long and fatiguing journey through a mountainous wilderness in a westward direction. On the 7th of June following we found ourselves on Red River, where John Finley had formerly been trading with the Indians, and from the top of an eminence saw with pleasure the beautiful level of Kentucky." During the summer and fall, they continued to hunt, but on December 23rd, Boone and John Stewart or Stuart, who had rambled away from their encampment, were captured by a roving band of Indians, more intent on plunder than murder. After seven days confinement, they escaped at night and made their way to their camp, "but found it plundered and the company dispersed and gone home."

About this time, Squire Boone, Daniel's brother, who had followed them into the wilderness, and a companion accidentally found their camp. Boone says: "Soon after this my companion in captivity, John Stewart was killed by the savages, and the man that came with my brother returned home by himself."² The two Boones built a cabin and remained in the wilderness during the winter hunting and trapping, "and on the first day of May, 1770, my brother returned home to the settlement by himself for a new recruit of horses and ammunition, leaving me by myself without bread, salt or sugar, without company of my fellow creatures, or even a horse or dog."³ During the in-

¹ Autobiography, dictated to John Filson.

² *Ibid.*

³ *Ibid.*

terval, between Squire's departure and return on July 27th, Boone toured the country and says: "I surveyed the famous river Ohio that rolled in silent dignity marking the western boundary of Kentucky with inconceivable grandeur."⁴ Returning to his old camp, which he found undisturbed, although he believed often visited by the Indians, fortunately for him during his absence, he awaited his brother who joined him as stated July 27th. He continues:⁵ "Shortly after, we left this place not thinking it safe to stay there longer and proceeded to Cumberland River reconnoitering that part of the country until March and giving names to the different waters. Soon after, I returned home to my family with a determination to bring them as soon as possible to live in Kentucky, which I esteemed a second paradise at the risk of my life and fortune." Many tall tales have been told and repeated by his biographers of his adventures during his solitary sojourn in Kentucky and have given great enchantment to the story of Daniel Boone.

During the time between his return early in 1771 and the fall of 1773, there has been no authentic account of what Boone did although the interval has been supplied by traditions of a change of residence and further adventures. Boone resumes his narrative:⁶ "I returned safe to my old habitation and found my family in happy circumstances. I sold my farm on the Yadkin and what goods we could not carry with us; and on the 26th of September, 1773, bade farewell to our friends and proceeded on our journey to Kentucky in company with five families more, and forty men that joined us in Powel's Valley, which is one hundred and fifty miles from the now settled parts of Kentucky." The party, leaving Powell's Valley, made their way over the Powell and Walden mountains and were approaching the Cumberland mountains, when on October 10th, "the rear of our company was attacked by a number of Indians, who killed six and wounded one man. Of these my eldest son was one that fell in this action. Though we defended ourselves and repulsed the enemy, yet this unhappy affair scattered our cattle, brought us into extreme difficulty and so discouraged the whole company, that we retreated forty miles to the settlement on Clinch River."⁷

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

Although there are various accounts, varying materially from Boone's succinct statement, we prefer to accept the version of the principal actor in the sad tragedy. Boone remained with his family in the settlement on the Clinch until June 16, 1774, when as heretofore related with Michael Stoner he conducted a party of surveyors from the Kentucky wilderness back to the settlements.

After assisting in the negotiations of the Sycamore Shoals Treaty, Boone, by direction of the Transylvania Company, employed the necessary men and commenced marking the road through the wilderness to central Kentucky. The road makers who assisted Boone in this important undertaking and as preserved by tradition were:⁸ Squire Boone, Edward Bradley, James Brodges, William Bush, Samuel Coburn, Colonel Richard Calloway, Captain Crabtree, Benjamin Cutbirth, David Gass, John Hart, William Hays (son-in-law of Boone), William Hicks, Edmund Jennings, Thomas Johnson, John Kennedy, John King, William Miller, William Moore, James Nall, James Peeke, Bartlet Searcy, Reuben Searcy, Michael Stoner, Samuel Tate, Oswell Towns, Captain William Twitty, John Vardeman, and Felix Walker. Mrs. Hays, Boone's daughter traveled with her husband, a negro woman accompanied Calloway, and a negro man killed at Rockcastle was with Twitty.

The Wilderness Road is said to have begun on the Holston river, but thence across the Clinch and Powell rivers to Cumberland Gap it probably followed established trails, as there were already scattered settlements in this region. At Cumberland Gap, the new road actually began and proceeded through a well wooded country where the work was confined to blazing the trees and removing the underbrush, but after crossing Rockcastle river real difficulties commenced. From thence they directed their course north toward the Kentucky river through twenty miles of dead brushwood, impenetrable even by the buffalo herds, and which had to be removed by chopping and burning. Emerging in the open country, the beautiful blue grass valley of the Kentucky river lay before them.⁹ "We began to discover the pleasing and rapturous appearance of the plains of Kentucky. A new sky and strange earth seemed to be presented to our view. So rich a soil we had never seen before—covered

⁸ Thwaites, *Life of Boone*, page 117.

⁹ Felix Walker's Narrative in Ranck's *Boonesborough*.

with clover in full bloom. The woods were abounding with wild game—turkeys so numerous that it might be said they appeared but one flock universally scattered in the woods. It appeared that nature in the profusion of her bounty, had spread a feast for all that lived, both for the animal and rational world. A sight so beautiful to our view and so grateful to our feelings almost inclined us in transport to kiss the soil of Kentucky . . . in imitation of Columbus, as he hailed and saluted the sand on his first setting foot on the shores of America.”

Pushing on, the night of March 24th, they encamped near Silver creek in the present Madison county within fifteen miles of their destination, where they were surprised by a band of Indians ambushed in the thickets around them. Roused by the savage onslaught, the dazed and half naked roadmakers fled from the lighted campfire to the sheltering darkness of the trees, and succeeded in repelling their assailants, but not until they had suffered several casualties. Captain Twitty wounded in both knees was saved from being scalped by his bulldog which ferociously attacked the Indians who surrounded him. Twitty’s slave was instantly killed and Felix Walker badly wounded was barely saved by his comrades. Twitty and Walker being so seriously injured could not be removed and a rude fortification called “Twitty’s Fort” was hastily constructed for their protection. There, Twitty soon afterwards died, but Walker was nursed to recovery by Boone with what Walker calls, “paternal affection.”¹⁰ Three days later, they were again attacked and two of their men were killed and three wounded.¹¹ “On March 28th, as we were hunting for provisions, we found Samuel Tate’s son, who gave us an account that the Indians fired on their camp on the 27th. My brother and I went down and found two men killed and scalped, Thomas McDowell and Jeremiah McPhelters. I have sent a man down to all the lower companies in order to gather them all to the mouth of Otter creek. My advice to you sir is to come or send as soon as possible. Your company is desired greatly, for the people are very uneasy but are willing to stay and venture their lives with you and now is the time to flusterate the intentions of the Indians and keep the country, whilst we are in it. If we give way to them now, it will ever be the case. This day we start from the battleground

¹⁰ Walker, *Narrative*, and Filson, *Autobiography*.

¹¹ Filson, *Autobiography*.

for the mouth of Otter creek where we shall immediately erect a fort, which will be done before you can come or send . . . then we can send ten men to meet you if you send for them.

N.B. We stood on the ground and guarded our baggage till day and lost nothing. We have about fifteen mile to Cantuck at Otter Creek." ¹²

After these discouragements, Boone's party proceeded to the Kentucky river and on April 1, 1775, on the south side and about sixty yards from it and near a salt-lick, began the erection of a fort which they called Boonesborough.¹³ Meanwhile, Henderson, with wagons loaded with supplies was following along the path Boone had made and improving it as he progressed, and on March 25th had come to Mrs. Callaways without incident.¹⁴ In his party were Nathaniel Hart and John Luttrell, two of his partners, Nathaniel and Samuel Henderson his brothers, John Farrar, legal representative of the Cherokee Indians, William Cocke afterwards a leading man of Tennessee, Benjamin Logan and a number of slaves. Other recruits were following in an exodus from North Carolina and Virginia to the promised land, but all were not stout-hearted and upon receipt of news of the Indian attacks, these deserted the expedition and returned to their peaceful homes east of the mountains. Apprehending that more of these desertions from his own and Boone's company would break up and destroy the enterprise, Henderson noted in his diary. "Everything now depends on Boone's maintaining his ground . . . at least until we can get there," and much afraid lest Boone and the men with him would abandon the country, he sent a messenger to him with words of encouragement and assurances of support. William Cocke, later distinguished as a lawyer and legislator of Tennessee volunteered to go and unattended made his way to Boonesborough without interference.

Pushing on through the narrow path lined with brushwood and canebrakes, Henderson's wagon and pack trains reached Boonesborough, April 20th; and the overjoyed proprietor wrote his associates:¹⁵ "One whole month without intermission, traveling in a barren desert country, most of the way our horses packed beyond their strength; no part of the road tolerable, most of

¹² Boone's letter to Henderson in *Collins' History of Kentucky*.

¹³ Filson, *Autobiography*.

¹⁴ Henderson, *Diary in Ranck*.

¹⁵ Ranck, page 187.

it either hilly, stony, slippery, miry or bushy; our people jaded and dispirited with fatigue and what was worse often pinched for victuals. To get clear of all this at once was as much as we could bear; and though we had nothing here to refresh ourselves with but cold water and lean buffalo meat without bread. It certainly was the most joyful banquet I ever saw. Joy and festivity was in every countenance."

There, they found Boone and his men busily employed in rolling undressed logs into rude cabins and hewing timber for the stockade. It is said the location of the fort did not suit Henderson and that he removed it a short distance and that he was displeased with the progress made in building the fort. Boone and his men had not busied themselves entirely with construction but had surveyed and chosen choice locations of their own, and Henderson comments in his diary: "Mr. Boone's company having laid off most of the adjacent good lands into lots of two acres each and taking it as it fell to each individual by lot was in actual possession and occupying them." With these reinforcements and others on the way, the successful establishment of Boonesborough was assured, but Indians lurked about the surrounding country and threatened them. However, but one man was killed and the necessary crops of corn and vegetables were planted without interference. Henderson and his party spent about a week in new surveys and drawing lots and in quarreling about them and redrawing them again, "at the end of which everyone seemed satisfied."

Boone's autobiography continues:¹⁶ "We were busily employed in building the fort until the fourteenth day of June following, without any further opposition from the Indians; and having finished the works, I returned to my family on Clinch. In a short time I proceeded to remove my family from Clinch where we arrived safe without any other difficulty than such as are common to this passage; my wife and daughter being the first white women that ever stood on the banks of Kentucky River."

¹⁶ Filson, *Autobiography*.

CHAPTER III

BOONESBOROUGH

Boonesborough, the capital of Transylvania was no regal town but merely a rough outpost of the American frontier of which not a vestige remains at the present time. The Kentucky river wends its limpid way in gentle curves below the bluffs upon which the fort stood, and the rich soil of the surrounding country still produces bluegrass and corn, but of man's work naught remains save distant farm houses and a country road which makes its weary way to the Boonesborough ferry.

Somehow and somewhere, Daniel Boone had acquired a meagre knowledge of surveying and with compass and chain he laid out the town, dividing it into two acre lots which were allotted to the settlers. The place was situated on a bluff on the south side and overlooking the Kentucky river, and was in the usual form of a stockaded enclosure. The cabins, nearly thirty in number were arranged in a parallelogram, with their backs forming part of the fortification and their fronts facing an open square. A presumptive sketch, it is said based on plans preserved by Henderson, and appearing in Ranck's History of Boonesborough, indicates they were grouped together on one side and end of the fort. At the four corners were the usual blockhouses slightly extending beyond the line of palisades and with an overhanging second story thus affording a crossfire in either direction and a drop or down fire on attempted scalers. One side and one end consisted almost entirely of a line of pickets, and there were two gates one facing the river and the other the open country. The backs of the houses, the blockhouses and the line of pickets were provided with numerous loopholes for rifle fire. In the center of the square appears a large building, presumably a storehouse or building used in common. Back from the river were the cultivated fields and grazing grounds.

Boonesborough was not the first settlement in Kentucky. James Harrod had begun Harrodsburg in 1774, but due to

an Indian scare temporarily left and did not return and permanently occupy it until the following spring about a month before Boonesborough was founded. Harrod also established a settlement at Boiling Spring nearby; and John Floyd, a Virginia surveyor and a party from that state established themselves at a place some thirty miles south of Boonesborough, which they called St. Asaph. In 1775, Harrodsburg, Boonesborough, Boiling Spring and St. Asaph were the only four towns within the limits of the Transylvania purchase, but settlers came from Pennsylvania, Maryland, Virginia and North Carolina and soon dotted the country with scattered stations and isolated cabins. North of the Kentucky river, the principal settlements were: Hunter's Station, now Paris, Hinkson's Station on the Licking river and McClelland's Station on the Elkhorn river.

Among the prominent settlers of this early time were: George Rogers Clark, Robert Patterson, William Whitley, Benjamin Logan, Simon Kenton and Hugh McGary. All were Indian fighters and prominent in the future development of Kentucky. Clark was the greatest of these famous Kentuckians and his achievements in conquering the west have placed him as one of the chief American empire builders. The renown of Simon Kenton as an Indian fighter and scout puts him in the same class with Daniel Boone. The population of the four towns, Harrodsburg, Boonesborough, Boiling Springs and St. Asaph and the other scattered settlements of Transylvania at the end of 1775 is unknown but could not have exceeded a few hundred. The history of the attempted state of Transylvania will be related hereafter in a separate chapter, and it is not my purpose to continue the annals of Boonesborough beyond the period covered by the existence of the pretended government of that lost state and the land grants of the Transylvania Company.

Henderson and his associates opened a store at Boonesborough but the high prices charged exasperated the people and the greedy land jobbing of the proprietors disgusted nearly all who had enlisted in the enterprise. A land office was opened and lands disposed of in tracts of five hundred acres to any person who would settle and inhabit the same before June 1, 1776 and tracts of two hundred and fifty acres to each tithable person who accompanied him at the rate of fifty shillings sterling per hundred acres subject to a yearly quitrent of two shillings to commence in the year 1780. Every title deed was to contain

a clause reserving to the company one half of the minerals; and fees were charged for entering a claim, for making the survey and drawing the deed, amounting in all to nearly two pounds. These onerous conditions and the increase in price from twenty shillings to fifty shillings per hundred acres disgusted prospective purchasers, who with those who had come as mere adventurers departed in consequence of which the population considerably dwindled. The company, however, was more liberal to Boone and voted him two thousand acres for the great services he had rendered. In spite of these onerous conditions over nine hundred claims were entered in the land office at Boonesborough for some 500,000 acres.

Two hundred and thirty acres of corn and a considerable quantity of vegetables were raised during the summer, but the abundant game still remained the principal source of sustenance. Soon after Boone's return with his family, Colonel Richard Callaway, who had gone on a similar mission came back with his wife, sons and daughters, together with other settlers and their families. Horses and cattle, poultry and swine were brought in, together with other incidents of good husbandry. There were twelve women in the colony and their presence developed family and social life and insured the permanency and stability of the settlement.

After the outbreak of the Revolution and their alliance with the British, the northern Indians assumed a hostile attitude toward Kentucky, and roving bands came over the Ohio and ravaged the settlements. According to Boone's account;¹ on July 14, 1776, Jemima second daughter of Daniel Boone aged fourteen years and Betsey and Fanny Callaway aged sixteen and fourteen years, daughters of Colonel Richard Callaway were canoeing in the Kentucky river opposite Boonesborough. The canoe drifted close to the shore and a warrior, from one of these bands hiding in the bushes, waded the water and seized it. There are various stories told of the resistance of the captives, but it is more probable they were too scared to do anything save shriek sufficiently loud and alarm those in the fort who immediately organized two rescuing parties one on horseback under Colonel Callaway that raced to the fords of the Licking river where they hoped to intercept the Indians; and the other on foot under Boone and John Floyd, which party included

¹ Autobiography.

Samuel Henderson, Flanders Callaway and John Holder, youths in love with the captives. They made a direct pursuit, aided in their course by traces designedly left by the girls, such as broken twigs and scraps of clothing dropped by the way. Early in the morning of the 16th, Boone detected smoke curling from the Indian encampment and cautiously approaching their campfire attacked them or as Floyd reported, "We discovered each other nearly at the same time, four of us fired and all rushed on them, which prevented them from carrying away anything except one shot-gun without ammunition. Mr. Boone and myself had a pretty fair shot just as they began to move off. I am well convinced that I shot one through and the one he shot dropped his gun and mine had none. The place was very thick with canes, and being so much elated on recovering the three broken hearted girls, prevented our making further search. We sent them off without their moccasins, and not one of them without so much as a knife or tomahawk." Three weeks after this episode, Samuel Henderson married Betsey Callaway; and in due time Flanders Callaway married Jemima Boone and John Holder became the husband of Fanny Callaway.

The Shawnees continued their depredations and many of the settlers became panic stricken, and fled to Virginia, much depleting the scattered population of Kentucky. The principal leaders remained and strove to reassure and protect the people, among whom was John Floyd who wrote: "I want to return as much as any man can do, but if I leave the country there is scarcely one single man who will not follow the example. When I think of the deplorable condition a few helpless families are likely to be in, I conclude to sell my life as dearly as I can in their defense rather than to make an ignominious escape."

In December, 1776, the newly created state of Virginia exercised its rights to the vast western territory when the legislature passed an act erecting the County of Kentucky which included the Transylvania Company purchase, and thereby extinguished the governmental authority of the pretended state of Transylvania. The officers of the new county appointed by Virginia were: David Robinson, county lieutenant; John Bowman, colonel; Anthony Bledsoe and George Rogers Clark, majors; Daniel Boone, James Harrod, John Todd, and Benjamin Logan, captains. As it was not until November, 1778, that the Virginia legislature declared the Transylvania land claims

null and void, the story of Boonesborough will be continued to that time.

The Indians continued their ravages, confining the settlers to the strongest stations, Harrodsburg and Boonesborough. "The innocent husbandman was shot down while busy in cultivating the soil for his family's supply. Most of the cattle around the stations were destroyed. They continued their hostilities in this manner until the 15th of April, 1777, when they attacked Boonesborough with a party of above one hundred in number, killed one man and wounded four. Their loss in this attack was not certainly known to us."

"On the 4th day of July following, a party of about two hundred Indians attacked Boonesborough, killed one man and wounded two. They besieged us forty eight hours during which time seven of them were killed and at last finding themselves not likely to prevail, they raised the siege and departed." ² In the latter part of July, reinforcements of forty five men came from North Carolina, and during August, Colonel Bowman, the colonel commandant of Kentucky county arrived with one hundred Virginia militiamen and supplies of powder and lead.

Salt had become scarce, and because of inability to procure it from abroad, the settlers resorted to the salt springs, which abounded in Kentucky. On the first day of January, 1778, Boone went with a company of thirty men to the Blue Licks on the Licking river, a large and rich salt spring. They carried with them the large iron kettles in which the salt water was boiled and the other equipment required. It took about eight hundred gallons of brine to make a bushel of salt; and the men were kept busy chopping the necessary wood to fire the kettles. For more than a month they were undisturbed and had succeeded in making a considerable quantity, some of which had been transported by pack horses back to Boonesborough. On February 7th, Boone while on a hunting trip for the procurement of venison for his company was surprised and seized by a band of Shawnee Indians intent on the capture of Boonesborough. There were in this band one hundred and two warriors and two Frenchmen. Boone says: "They pursued and took me," which simple statement has evidently given rise to many imaginary tables of just how he was pursued and taken, which although entertaining reading, in justice to truth and sense will be omitted. Continuing the nar-

² *Ibid.*

rative he says: "and brought me on the 8th day to the Licks where twenty seven of my party were, three of them having previously returned home with salt. I knowing it was impossible for them to escape capitulated with the enemy and at a distance in their view gave notice to my men of their situation, with orders not to resist but surrender themselves captives." ³ As promised they were kindly treated on their march to the Ohio but on account of the severity of the weather and lack of food, both captors and captured painfully suffered. They crossed the Ohio and repaired to old Chillicothe then the principal Shawnee village on the Little Miami river, where they arrived February 16th, "and received as good treatment as persons could expect from savages." It is said that about half the twenty seven captives were adopted and became members of Indian households. However, Boone and ten other prisoners were conducted to Detroit, where the British were paying liberal rewards for all prisoners brought in. They arrived at the British headquarters, March 30th, "and were treated by Governor Hamilton, the British commander of the post with great humanity." At this time the English generals had been instructed by the home government to treat Americans of distinction whom they contacted with great consideration and if possible seduce them from the American to the British cause. It would seem, at this time, that America was filled with prospective traitors, and that Benedict Arnold was not the only one of evil designs. The loyalty of Kentucky has been questioned and being far removed from the scenes of conflict, her pioneers had taken little part in the actual struggles of the Revolution. It is most probable that sentiment there as elsewhere was sharply divided and that considerable numbers of her inhabitants possessed Tory inclinations. As Boone had been commissioned an officer in the British service, during the Dunmore War by the royal governor of Virginia, it was surmised he was a Tory and this together with his easy surrender of the salt makers and the lenient treatment he received from the British lent countenance to the later charge made against him. He says: "During our travels, the Indians entertained me well, and their affection for me was so great, that they utterly refused to leave me there with the others, although the Governor offered them one hundred pounds sterling for me on purpose to give me a parole to go home. Several English gentlemen there being sensible of my adverse

³ *Ibid.*

fortune and touched with human sympathy generously offered a friendly supply for my wants, which I refused with many thanks for their kindness — adding that I never expected it would be in my power to recompense such unmerited generosity.”⁴

Leaving the other prisoners in captivity with the British, Boone was returned by the Indians to Chillicothe and was, “adopted according to their custom into a family where I became a son and had a great share in the affection of my new parents, brothers, sisters and friends.”⁵ He accompanied the Indians on their hunting excursions and participated in their shooting bouts, being provided with rifle, powder and shot. “The Shawanese king, (Black Fish) took great notice of me, and treated me with profound respect and entire friendship, often intrusting me to hunt at my liberty.”⁶ After visiting the salt springs at Scioto and assisting his captors to make salt for ten days, they returned to Chillicothe and, “alarmed to see four hundred and fifty Indians of their choicest warriors, painted and armed in a fearful manner ready to march against Boonesborough, I determined to escape at the first opportunity. On the 16th before sunrise, I departed in the most secret manner and arrived at Boonesborough on the 24th after a journey of one hundred and sixty miles during which I had but one meal.”⁷ Boone’s family had given him up as lost and his wife and children had returned to their old home on the Yadkin river in North Carolina, and only his daughter Jemima married to Flanders Callaway and his brother Squire Boone remained at Boonesborough, which had fallen into a sad state of disrepair; “but we proceeded to immediately repair our flanks, strengthen our gates and posterns and form double bastions which we completed in ten days.”⁸ Having prepared their defense and no Indians arriving, Boone with nineteen men went on a scouting expedition into the Indian country, crossed the Indian country and proceeded up the Scioto river within four miles of an Indian village called Paint Creek Town, where thirty savages were encountered, enroute to join the main expedition against Boonesborough. A sharp engagement ensued in which the Indians lost one man killed and two wounded.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

Ascertaining the main body was marching toward Boonesborough, Boone and his men made a rapid march, successfully passed them and within seven days safely reached Boonesborough.

On September 8th, the enemy consisting of a French captain, eleven Frenchmen and four hundred and forty four warriors arrived before Boonesborough and demanded its surrender. Boone who was in command of the defense, obtained two days to consider the demand. The cattle were collected within the stockade, final preparations were made and on the evening of the 9th, Boone replied that they would resist as long as a man remained alive. Contrary to expectations, of immediate assault, the French captain proposed a parley. It was held on the open ground sixty yards from the fort, by nine commissioners on either side. The captain represented that Hamilton's instructions were not to injure the inhabitants and if possible capture them without a fight and upon their surrendering and taking the oath of allegiance to the British king, their forces would retire and leave the people undisturbed. To this arrangement, the Boonesborough commissioners assented, and articles of agreement were drawn up and signed. Boone says: "The Indians told us it was customary with them on such occasions for two Indians to shake hands with every white man in the treaty, as an evidence of friendship. We agreed to this but were soon convinced their policy was to take us prisoners. They immediately grappled us, but surrounded by hundreds of savages we extricated ourselves from them and escaped all safe into the garrison, except one that was wounded through a heavy fire from their army. They immediately attacked us on every side, and a constant fire ensued between us day and night for the space of nine days."⁹ During the siege, the enemy attempted to undermine the fortifications and drove a tunnel along and under the bank of the river for some distance, but their undertaking was discovered by a muddy stream in the current of the river caused by the clay thrown from the tunnel. To counteract this mining operation, the garrison began an operation of their own and dug a trench across the enemy's tunnel. "The enemy discovering our counter-mine by the clay we threw out of the fort desisted from that stratagem and experience now fully convincing them that neither their power nor policy could effect their purpose, on the 20th day August, they raised the siege and departed."¹⁰

⁹ *Ibid.*

¹⁰ *Ibid.*

During this siege, the capability of the defenders was tested to the uttermost. All the men were engaged with their guns and the heroic women did the tasks assigned them, molding the bullets, loading the guns and extinguishing the fires which the Indians set with their lighted arrows. The defenders lost two men killed and had four wounded. A number of cattle were killed or driven off. The enemy casualties were thirty seven killed and a large number wounded. The siege of Boonesborough was one of the severest, most protracted and notable in the history of the frontier. It was the last Indian attempt to capture Boonesborough.

Although Boone had rendered valiant service in the defense of Boonesborough, many there still suspected him of being a Tory and of misconduct preceding the siege. Colonel Richard Callaway, next to Boone the leading man at Boonesborough, it seems, was his principal accuser, being assisted by Benjamin Logan. Some kind of a court martial was finally assembled, but no records of the proceedings exist and we must rely on tradition and conjecture of what occurred. No one has stated who constituted the court and it may have been merely a sort of town meeting at which he was blamed for misconduct and no formal accusations made. It is naturally surmised that he was suspected because he led the Indians to the camp of the salt makers and ordered them to surrender and because returning prisoners brought back tales of his fraternizing with the British and Indians and their friendly treatment of him which he himself stated to Filson. His leaving Boonesborough with nineteen men on a fruitless expedition when it was threatened, and treating with and making a treaty with the British on the eve of the siege under precarious circumstances may have excited suspicion. There is no evidence he was even censured, much less convicted. The whole thing may have been nothing but talk of his enemies bruited about and grown into a tradition. Boone does not mention it, nor even hint at dissatisfaction with his conduct, although he freely discloses and discusses all his acts which might have given rise to the reputed trial, not in the vein of an apologist but as a narrator of events.

The sentiment of Kentucky was undoubtedly divided, some were Whigs and some were Tories, and there was much bitterness there as elsewhere. He may have been outspoken in preference for the British and perhaps he was merely lukewarm toward

the Revolution of which he knew little and had little to do with or he may have been decidedly neutral. In the midst of all this haze of uncertainty, we venture to hazard the guess, that he cared more for the inhabitants of Kentucky than for American independence. His valorous and skilfull defense of Boonesborough certainly vindicated him in the eyes of the poor and beleagured people he served.

Through the mists of nearly two hundred years, one thing is certain, fortune has kindly treated the fame of Daniel Boone.

CHAPTER IV

A STATE THAT FAILED

Transylvania as a pretended state existed briefly and failed. Like a well managed play, the actors performed their parts properly and left the stage. Richard Henderson was playwright, stage manager and leading actor in what to him and his associates was a necessary performance but actually only a farce. The curtain was hardly down when objections arose among its members, which developed into a formidable opposition that incited the Virginia legislature to assert its charter rights to the western territory by the creation of the county of Kentucky, which in due time became a state and the fifteenth commonwealth of the Federal Union. This was the finale of the Transylvania drama and pained no one except the company's partners and they only suffered the loss of imaginary profits.

When Henderson arrived in Boonesborough in April, 1775, he realized that he must move fast, as there were already indications of the frustration of his scheme. His employees, the road makers and founders of Boonesborough, had appropriated the best located adjacent lands, which Boone had surveyed and allotted to them. Squatters had encroached upon his vast domain and founded settlements more populous than his own occupation. James Harrod had established Harrodsburg the year before, and also another place Boiling Springs nearby, while John Floyd, a Virginia surveyor and a party from that state were founding St. Asaph, some thirty miles southwest of Boonesborough. His immediate problem was to knit Harrodsburg, Boiling Springs, St. Asaph and Boonesborough into a harmonious organization by the establishment of an independent government, which he hoped might obtain royal recognition or at least a neutral position. By specious arguments, he apparently convinced Harrod and Floyd of the legality of the Transylvania purchase, and by promises of liberal land grants to them won their support. Arrangements were made for the establishment of an independ-

ent government and election of members of a House of Delegates, of which six were to represent Boonesborough and four each the other towns. Accordingly, an election was held and delegates were duly chosen from each of the four towns. They gathered at Boonesborough on May 23rd and assembled in the ample shade of a magnificent elm tree, which stood near the fort and was the only capitol Transylvania ever had. Henderson has graphically in his diary described it as follows:

“About fifty yards from the place where I am writing and right before me to the south (the river about fifty yards behind my camp and a fine spring to the west) stands one of the finest elms that perhaps nature ever produced in any region. This tree is placed in a beautiful plain surrounded by a turf of fine white clover forming a green to its very stock to which there is scarcely anything to be likened. The trunk is about four feet through to the first branches which are about nine feet high from the ground. From thence above it so regularly extends its branches on every side at such equal distances as to form the most beautiful tree that imagination can suggest. The diameter of its branches from the extreme ends is one hundred feet . . . and every fair day it describes a semi-circle on the heavenly green around it of upward of four hundred feet, and at any time between the hours of ten and two one hundred persons may commodiously seat themselves under its branches. This divine tree, or rather one of the many proofs of the existence from all eternity of its divine Author is to be our church, state house, council-chamber.”

A little platform was erected at the foot of the tree upon which the presiding officer and clerk sat, and grouped about it and seated on the ground in the shade of the tree were the delegates and spectators. It must have been a picturesque assemblage of rough frontiersmen in fringed hunting shirts and buck-skin breeches, and yet among them were a few men of talent and distinction. This Transylvania House of Delegates was composed of: Daniel Boone, Squire Boone, William Cocke, Richard Callaway, William Moore, and Samuel Henderson representing Boonesborough; Thomas Slaughter, Dr. John Lythe (an Episcopal clergyman), Valentine Harman and James Douglas representing Harrodsburg; James Harrod, Nathan Hammond, Azariah Davis and Isaac Hite were the delegates from Boiling Springs; and John Floyd, John Todd, Samuel Wood

and Alexander Spotswood Dandridge represented St. Asaph. Thomas Slaughter was chosen to preside, and the proceedings were opened with a long prayer by Dr. Lythe, the Episcopal clergyman. Being duly organized, they presented themselves in a body to the three proprietors who were in Boonesborough, Messrs. Henderson, Hart and Luttrell and waited their pleasure.

When we examine the difficulties of their situation, the circumstances and place of their meeting and the assumed formality of the proceedings, the whole undertaking seems a more comic than serious affair. It was an attempt to establish a full fledged state government over a population of barely two hundred men and with nothing to tax for its maintenance in a territory to which they had no title either by valid Indian cession or royal grant. Those who participated in the movement were land jobbers, migratory hunters and adventurers who were likely to abandon their crude beginnings en masse upon rumor of a serious Indian incursion. There was not a woman or child in Boonesborough, if there were any elsewhere, and it is families that give stability and permanency to a frontier plantation. They sought to establish a proprietary government with feudal tenures and quitrents at a time when men were destroying rank and privilege. It was a defiance of the charter rights of Virginia and North Carolina, and a vain attempt to unionize the discordant adventurers most of whom distrusted the whole affair acknowledged the validity of the Virginia land titles, and owed allegiance to that colony.

Henderson strove to argue away these difficulties with the sophistry of a dreamer, and in his address to them "from the throne," speciously defended the Cherokee purchase, brushed aside royal and colonial objections, adroitly concealed the selfish object of himself and his associates, and aroused their enthusiasm by claptrap oratory of which the following is a sample: "You are perhaps fixing the palladium, or placing the first corner-stone of an edifice the height and magnificence of whose superstructure is now in the womb of futurity, and can only become great and glorious in proportion to the excellence of its foundation." On the touchy question of Indian danger, he declared: "I am persuaded that nothing but the entire ignorance of our weakness and want of order has hitherto preserved us from the destructive and rapacious bands of cruelty and given us an opportunity at this time of forming some defensive plans to be supported

and carried into execution by the authority and sanction of a well digested law."

Having patiently listened to his long diatribe, the delegates set themselves to the serious business of legislation. Bills were introduced, referred to committees, amended and passed. Laws were adopted regulating the militia, establishing judicial tribunals, providing for the issuance of writs, the fees to be charged and against Sabbath breaking. Daniel Boone was chairman of the committee on the preservation of game, the extinguishment of which was already a serious threat, as Henderson recorded in his diary as follows: "We found it very difficult at first to stop great waste in killing meat. Some would kill three, four, five or half a dozen buffaloes and not take half a horse load from them all. For want of a little obligatory law our game as soon as got here, if not before were driven off very much. Fifteen or twenty miles was a short distance as good hunters thought of getting meat, nay sometimes they were obliged to go thirty, though by chance once or twice a week buffalo were killed within five or six miles."

A compact was drawn up by a committee composed of Delegates Todd, Lythe, Douglas and Hite, most likely under the watchful eye of Richard Henderson, as it clearly reflects his purpose, and presented to the assembly. It reads: "Whereas, it is necessary for the peace of the proprietors and the security of the people of this colony, that the powers of one and the liberties of the other be ascertained: We Richard Henderson, Nathaniel Hart, and J. Luttrell on behalf of ourselves as well as the other Proprietors of the Colony of Transylvania of the one part, and the representatives of the people of said Colony in convention assembled of the other part do most solemnly enter into the following contract or agreement to wit:

That the election of delegates in this colony be annual.

That the Convention may adjourn and meet on their own adjournment; Provided, that in cases of emergency, the Proprietors may call together the delegates before the time adjourned to; and if a majority do not attend, they may dissolve and call a new one.

That to prevent discussion and delay of business, one proprietor shall act for the whole, or some one delegated by them for that purpose, who shall always reside in the Colony.

That there be perfect religious freedom and toleration;

Provided that the propagators of any doctrine or tenets evidently tending to the subversion of our laws shall for such conduct be amenable to and punished by the civil courts.

That the judges of the superior or supreme courts be appointed by the Proprietors but be supported by the people and to them be answerable for their malconduct.

That the quitrents never exceed two shillings per hundred acres.

That the Proprietors appoint a sheriff who shall be one of three persons recommended by the courts.

That the judges of the superior courts have without fee or reward the appointment of the clerks of this colony.

That the judges of the inferior courts be recommended by the people and approved by the Proprietors and by them commissioned.

That all other civil and military officers be within the appointment of the Proprietors.

That the office of surveyor-general belong to no person interested or a partner in this purchase.

That the legislative authority, after the strength and maturity of the Colony will permit, consist of three branches to wit; the delegates or representatives chosen by the people; a council not exceeding twelve men possessed of landed estate who reside in the Colony, and the Proprietors.

That nothing with respect to the number of delegates from any town or settlement shall hereafter be drawn into precedent, but that the number of representatives shall be ascertained by law when the state of the Colony will admit of amendment.

That the land office be always open.

That commissions without profit be granted without fee.

That the fees and salaries of all officers appointed by the Proprietors be settled and regulated by the laws of the country.

That the Convention have the sole power of raising and appropriating all public moneys and electing their treasurer.

That for a short time, till the state of the Colony will permit to fix some place of holding the Convention which shall be permanent shall be agreed upon by the Proprietors and the Convention.

To the faithful and religious and perpetual observance of all and every of the above articles, the said Proprietors on behalf of themselves as well as those absent, and the chairman of

the Convention on behalf of them and their constituents have hereunto interchangeably set their hands and affixed their seals, the twenty seventh day of May, one thousand seven hundred and seventy five."

This instrument was evidently inspired and cleverly designed by Henderson and reflects clearly the workings of his legal mind. Every principal function of government except taxation was surrendered to the proprietors. It was adopted and signed. The final performance of the drama was the formal feudal investiture of the proprietors according to the ancient ceremony of livery of seizen by John Farrar, attorney for the Cherokee Indians, who handed a clod of earth taken from the foot of the elm to Henderson who accepted it for the proprietors as evidence of possession. The assembly then adjourned, never to meet again except for one brief session held some weeks later.

Leaving travesty and rising rumblings of discontent behind him, Henderson departed for North Carolina to engage in the more serious business of combatting an opposition which finally overwhelmed him. Even while he remained at Boonesborough, plotting and planning how to bamboozle the frontiersmen, portentous events had disarranged his plan. A revolution had broken out at Lexington and Concord, and a Continental Congress and not the king was the authority with which he had to deal. A meeting of all the proprietors except Nathaniel and David Hart, who remained at Boonesborough to stem the tide of adversity rising there, was held and it was determined to seek the admission of a delegate from Transylvania to Congress in the person of James Hogg and credentials were accredited him, as well as a memorial to Congress which concludes: "From the generous plan of liberty adopted by the Congress and that noble love of mankind which appears in all their proceedings, the memorialists please themselves that the United Colonies will take the infant colony of Transylvania into their protection; and they in return will do everything in their power and give such assistance in the general cause of America as the Congress shall judge to be suitable to their abilities. Therefore the memorialists hope and earnestly expect that Transylvania may be added to the number of the United Colonies, and that James Hogg Esq. be received as their delegate and admitted to a seat in the honorable the Continental Congress."

Reaching Philadelphia, the persistent Mr. Hogg sought interviews with John Adams, Silas Deane, Samuel Adams and other northern members; and these sophisticated New Englanders must have been amused by the crude presumptions of the Transylvanians. They patiently listened to his explanations and petitions, and while expressing sympathy with the Democratic procedure of the Transylvania legislature, they politely and positively disapproved of the proprietary government and the obnoxious feudal tenures and quitrents. Persisting beyond the limits of good manners, Hogg was dismissed as a nuisance and directed to interview the delegates from Virginia within whose charter limits Transylvania lay. With many misgivings but unabashed, Hogg interviewed George Wythe and Thomas Jefferson of the Virginia delegation who bluntly told him they would not consent to Congressional approval of Transylvania unless Virginia's claim was renounced by the proposed Virginia convention of the people and advised him to have Transylvania send a delegate to that convention and attempt to secure its approval.¹ The attempt to have Transylvania recognized as the Fourteenth Commonwealth being futile and listening to the friendly advice of some North Carolina members that it would be foolish to further persist, Hogg bundled up his papers, smothered his pride and went home.

Henderson and his associates unable to obtain any support, now faced the opposition which ended their bold and absurd scheme. In Transylvania, which they thought tranquilized by the institution of their pseudo government, discontent arose as soon as Henderson left. The leading men at Harrodsburg, Boiling Springs and St. Asaph realized they had been hoodwinked by the suave assurances of Henderson and that they had surrendered all the attributes of self government to a set of greedy land jobbers. The arrival at Boonesborough, in December of John Williams, the land agent of the Transylvania Company, and the onerous terms of land purchase he exacted, added fuel to the flame and actuated an organized resistance to the proprietors and the pretensions of the government they had set up. It began at Harrodsburg and Boiling Springs and was aided and abetted by the newcomers who were flocking to Kentucky. They addressed the Virginia Convention with a long memorial reciting their grievances, that the Cherokee Indians had no

¹ Hogg's Report, in *American Archives*, Vol. IV, 9th Series.

title to convey and that the so-called government was a mere farce. This memorial which probably contained the signatures of a majority of those then in the Transylvania territory was addressed to the Virginia Convention by "The inhabitants and some of the intended settlers of that part of North America now denominated Transylvania"; and as it is a pretty complete resume of the situation, there, is given in full and reads as follows:²

"Whereas some of your petitioners became adventurers in that country from the advantageous reports of their friends first explored it, and others since allured by the specious show of the easy terms on which the land was to be purchased from those who styled themselves Proprietors, have at a great expense and many hardships settled there under the faith of holding the lands by an indefeasible title, which these gentlemen assured them they were capable of making. But your petitioners have been greatly alarmed by the late conduct of those gentlemen in advancing the price of the purchase money from twenty shillings to fifty shillings per hundred acres, and at the same time have increased the fees of entry and surveying to a most exorbitant rate; and by the short period prefixed for taking up lands, even on these extravagant terms they plainly evince their intentions of rising in their demands as the settlers increase or their insatiable avarice shall dictate.

And as your petitioners have been justly alarmed at such unaccountable and arbitrary proceedings as they have lately learned by a copy of the deed made by the Six Nations with Sir William Johnson and the commissioners from this Colony (Virginia) at Fort Stanwix in the year 1768, that the said lands were included in the cession or grant of all the tract which lies on the south side of the river Ohio, beginning at the mouth of Cherokee or Hogohege (the Tennessee) and extending up the said river to Kettaning (on the Allegheny River). And as in the preamble of the said deed, the said confederate Indians declare the Cherokee River to be their true boundary with the southward Indians, your petitioners may with great reason doubt the validity of the purchase that those Proprietors have made with the Cherokees, the only title they set up to the lands for which they demand such extravagant sums from your petitioners without any other assurance for holding them than their

² Contained in Journal of the Virginia Convention.

own deed and warrant; a poor security as your petitioners humbly apprehend for the money, that among other new and unreasonable regulations, these Proprietors insist shall be paid down on the delivery of the deed.

And as we have the greatest reason to presume that His Majesty to whom the lands were deeded by the Six Nations for a valuable consideration will vindicate his title, and think himself at liberty to grant them to such persons and on such terms as he pleases, your petitioners would in consequence thereof be turned out of possession or obliged to purchase their lands and improvements on such terms as the new grantee or proprietor might think fit to impose; so that we can not help regarding the demand of Mr. Henderson and his Company as highly unjust and impolitic in the infant state of the settlement, as well as greatly injurious to your petitioners who would cheerfully have paid the consideration at first stipulated by the Company, whenever their grant had been confirmed by the Crown, or otherwise authenticated by the supreme legislature.

And as we are anxious to concur in every respect with our brethren of the United Colonies for our just rights and privileges, as far as our infant settlement and remote situation will admit, of, we humbly expect and implore to be taken under the protection of the honorable Convention of the Colony of Virginia of which we cannot help thinking ourselves still a part and request your kind interposition on our behalf, that we may not suffer under the rigorous demands and impositions of the gentlemen styling themselves Proprietors, who better to effect their oppressive designs have given them the color of a law, enacted by a score of men artfully picked from the few adventurers, who went to see the country last summer overawed by the presence of Mr. Henderson.

And that you would take such measures as your honors in your wisdom shall judge expedient for restoring peace and harmony in our divided settlement; or if your honors apprehend that our cause comes more properly before the honorable the General Congress, that you would in your goodness recommend the same to your worthy delegates to espouse it as the cause of the Colony."

To this ably drawn and well considered petition, Henderson and his associates replied by a counter memorial to which the Virginia Convention gave little consideration. The Harrodsburg

people in support of the petition elected two delegates, George Rogers Clark and John Gabriel Jones from West Fincastle as they styled their territory, and sent with them another petition requesting the Convention to erect the territory into a Virginia county to be called West Fincastle. Clark and Jones did not participate in the Convention, it having adjourned before their arrival.

The Declaration of Independence transformed Virginia from a royal colony into a sovereign and independent state, and probably persuaded by the Harrodsburg petitions and the statements of Messrs. Clark and Jones, the Virginia legislature, in December, 1776, erected the county of Kentucky, which included the territory of Transylvania and thereby forever extinguished the pretended government. Two years later, in November, 1778, the Virginia legislature declared the Transylvania land claims null and void; and resolved that:

“As said Richard Henderson and Company have been at great expense in making the said purchase and in settling the said lands . . . by which this Commonwealth is likely to receive great advantages by increasing the inhabitants and establishing a barrier against the Indians . . . it is just and reasonable to allow the said Richard Henderson and Company a compensation for their trouble and expense.” Accordingly a grant of two hundred thousand acres of land in Kentucky was voted to the proprietors; and a similar grant was made them by the legislature of North Carolina, where a part of their Cherokee purchase lay. As usual, however, the poor settlers were not recompensed by any one for their purchases from the Transylvania Company, which must have been considerable as nine hundred entries for some five hundred thousand acres had been made in the land office at Boonesborough.

Transylvania was but an episode in winning the western country. The adventure tinged with romance attracted attention to Kentucky, enticed settlers there and enhanced the fame of Daniel Boone, but in the political development of the west it is merely an incident, as the astute and experienced men, who in 1792 made the State of Kentucky the fifteenth member of the Federal Union, needed little inspiration and guidance from the land jobbers and rough frontiersmen who in 1775 organized the government of Transylvania.

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